IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.12.2022

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.35026 of 2022
and
W.M.P.Nos.34462 and 34464 of 2022

M/s. Southern Railway
Represented by its Deputy Financial Adviser &
Chief Accounts Officer,
Ms.V.Alamelu
NGO Building 1 & 2 Mint Street,
Park Town, Chennai – 600 003. ... Petitioner

Vs.

1.The Assistant Commissioner of GST and Central Excise,
Egmore Division – Chennai North Commissionerate,
Newry Towers, First Floor, No.2054 – I,
2nd Avenue, 12th Main Road,
Anna Nagar,
Chennai – 600 040.

2.Principal Commissioner of CGST and Central Excise,
Chennai North Commissionerate,
No.26/1, Mahatma Gandhi Road,
Chennai – 600 034.

3.Union of India,
Represented by its Secretary,
Ministry of Finance, Department of Revenue,
North Block, New Delhi – 110 001.

4.JSW Steel Limited,
Rep. by Plant Head,
Pottaneri, Mecheri, Mettur Taluk,
Salem, Tamil Nadu – 636 453. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in relation to the Notice under the Provisions of Section 87 of the Finance Act, 1994 dated 21.12.2022 with DIN 20221259TK00003303EE, directing the 4th respondent to refrain from making payments to the petitioner, quash the same and consequently direct the 1st respondent to refrain from initiating recovery proceedings and to await the out-come of the settlement of the dispute under the SVLDRS-1 scheme.

For Petitioner : Mr.ARL.Sundaresan,
Senior Counsel
for Ms.Jayalakshmi

For Respondents : Mr.Sai Srujan Tayi,
Senior Panel Counsel [R1 to R3]

ORDER

This writ petition has been filed challenging the recovery proceedings dated 21.12.2022 pursuant to the order dated 20.01.2022 resulting in a demand of service tax of Rs.34,48,11,946/- for the period from October 2012 to June 2017, apart from interest and penalty equal to the taxes.

2. Heard Mr.ARL.Sundaresan, learned senior counsel for the petitioner. Mr.Sai Srujan Tayi, learned Senior Panel Counsel, accepts notice on behalf of the respondents 1 to 3. By consent of both the parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. It is submitted by the learned senior counsel for the petitioner that certain book adjustments have been made, however, it is stated that the same has not been credited to the Treasury. He would further submit that they intend to file an appeal within a period of two weeks and also explore the possibility of filing an application under the Sabka Vishwas Scheme.

4. However, the learned senior panel counsel appearing for the respondents 1 to 3 would submit that the scheme is no longer in vogue. The learned Senior Counsel for the petitioner responded by stating that the application was submitted when the scheme was in vogue and all that they intend to do is to try and revive the application.

5. It is further submitted by the learned Senior Counsel for the petitioner that the respondents on 27.12.2022, had undertaken that a recovery action under Section 87 of the Finance Act, 1994 would be kept in abeyance, to which, the learned senior panel counsel would submit that the above undertaking would continue and they will keep in abeyance all the recovery proceedings, if the petitioner files an appeal within a period of two weeks, until the stay petition is disposed of.

6. In the circumstances, I am not inclined to go into the merits of the case.

7. It is open to the petitioner to file an appeal within a period of two (2) weeks from the date of receipt of a copy of this order and also restore the application filed under the SVLDRS-1 Scheme, if there are no legal impediments, in accordance with law. The writ petition stands disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

28.12.2022

Speaking (or) Non Speaking Order
Index : Yes/ No

Sni/Nst

To

1.The Assistant Commissioner of GST and Central Excise,
Egmore Division – Chennai North Commissionerate,
Newry Towers, First Floor, No.2054 – I,
2nd Avenue, 12th Main Road,
Anna Nagar,
Chennai – 600 040.

2.Principal Commissioner of CGST and Central Excise,
Chennai North Commissionerate,
No.26/1, Mahatma Gandhi Road,
Chennai – 600 034.

3. Secretary of Union of India,
Ministry of Finance, Department of Revenue,
North Block, New Delhi – 110 001.

MOHAMMED SHAFFIQ, J.

Sni/Nst

W.P.No.35026 of 2022
and
W.M.P.No.34478 of 2022

28.12.2022