IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2022

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No. 35492 of 2019 and
WMP.Nos.36323 of 2019

M/s.Khivraj Vahan Pvt. Ltd.
Rep. by its Director:
Ajith Kumar Chordia
No.617, Bharat Kumar Bhavan,
Anna Salai
Chennai-6. ...Petitioner

Vs.

1.Additional Director (DGGI)
O/o.The Directorate General of Goods and Service Tax Intelligence
Chennai Zonal Unit
C-3, C-Wing, II Floor
Rajaji Bhavan,
Besant Nagar Chennai-6
2.Additional/ Joint Commissioner of Central Excise and GST,
Chennai North Commissionerate,
26/1 Mahathma Gandhi Road
Nungambakkam, Chennai-34. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorari calling for the records of the impugned proceedings of the 1st respondent bearing F.No.INV/ DGGI/CZU/ ST/70/2019 OR. No.131/2019(ST) dated 11.11.2019 and quash the same.

For Petitioner : Mr.S.Raveekumar
For Respondents : Mr.V.Sundareswaran
Senior Panel Counsel

ORDER

The petitioner has challenged a show cause notice dated 11.11.2019. The issue, that is sought to be raised therein, touches upon the issue of taxability of what the petitioner claims are sales discount and promotional activity.

2. The adjudication of this issue requires in depth analysis and examination of various documents, including contracts/agreements entered into by the petitioner with the customers as well as the manufacturers in respect of whom the petitioner is the beneficiary of the trade discount/promotions.

3. The above exercise, in my considered view, cannot be embarked upon in writ jurisdiction. The matter came up for admission on 20.12.2019. Notice was issued to the respondents and proceedings were directed to go on but not be concluded until further orders.

4. In light of the above discussion, the petitioner is permitted to file its response to show cause notice dated 11.11.2019 within a period of four weeks from today. Upon receipt thereof, the petitioner shall be issued a notice of personal hearing.

5. The petitioner is granted liberty to raise all submissions before the Authority including on the aspect of assumption of jurisdiction as one of the arguments put forth by the learned counsel is that the Authority which has issued the impugned notice does not hold requisite jurisdiction in the matter. The petitioner also apprehends that the authorities would have predetermined the issue that arises for determination.

6. It is made clear that hearing shall be full and fair and orders shall be passed within a period of four weeks from date of personal hearing by the Authority keeping an open mind in regard to all issues and taking note of all/any judicial precedents that the petitioner may rely upon.

7. The impugned show cause notice is thus not interfered with and this writ petition is disposed as above. No costs. Connected miscellaneous petition is closed.

13.10.2022

Index : Yes/No
Speaking Order
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DR.ANITA SUMANTH,J.
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To

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