



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).Nos.4779 and 4780 of 2022

and

W.M.P(MD).Nos.3961, 3963, 3966 and 3967 of 2022

W.P.(MD).No.4779 of 2022

M/s.PSTS Logistics Private Limited,
Represented through its Director,
Mr.J.Ganeshram,
II Floor, Wavoo Mansion,
48, Rajaji Salai,
Chennai-600 001.

... Petitioner

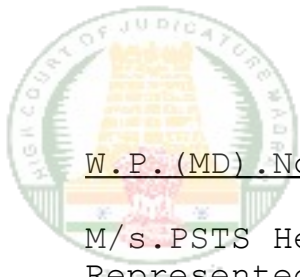
Vs.

The Commissioner of CGST & Central Excise,
O/o.The Commissioner of CGST & Central Excise,
Central Revenue Buildings,
GST Bhavan, No.4,
Lal Bahadur Shastri Marg,
Bibikulam,
Madurai-625 002.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for records pertaining to the Impugned Order in Ref.No. GEXCOM/AE/INV/GST/1688/2020-AE-O/o COMMR-CGST-MADURAI vide CBIC DIN 20220259XO0000888C77 dated 18.02.2022 and the consequential order in Ref.No. GEXCOM/AE/INV/GST/ 1688/2020-AE-O/o COMMR-CGST-MADURAI in CBIC DIN- 20220359XO0000017338 dated 10.03.2022 on the file of the respondent and quash the same as illegal and consequently direct the respondent to permit the petitioner's company to remit the tax liability through monthly installments within time frame stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy
For Respondent : Mrs.S.Ragaventhre
Junior Standing Counsel



W.P. (MD) .No.4780 of 2022

M/s.PSTS Heavy Lift and Shift Limited,
Represented through its Chief Operating Officer,
Mr.J.Ganeshram,
II Floor, Wavoo Mansion,
48, Rajaji Salai,
Chennai-600 001.

... Petitioner

Vs.

The Commissioner of CGST & Central Excise,
O/o.The Commissioner of CGST & Central Excise,
Central Revenue Buildings,
GST Bhavan, No.4,
Lal Bahadur Shastri Marg,
Bibikulam,
Madurai-625 002.

...Respondent

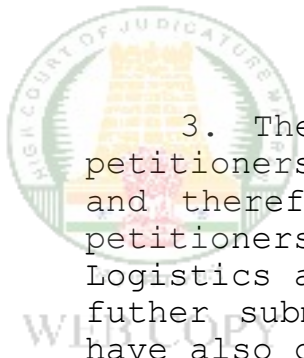
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for records pertaining to the Impugned Order in Ref.No. GEXCOM/AE/INV/GST/4101/2021-AE-O/o COMMR-CGST-MADURAI vide CBIC DIN 20220259XO0000818467 dated 22.02.2022 and the consequential order in Ref.No. GEXCOM/AE/INV/GST/ 4101/2021-AE-O/o COMMR-CGST-MADURAI in CBIC DIN- 20220359XO0000817100 dated 10.03.2022 on the file of the Respondent and quash the same as illegal and consequently direct the respondent to permit the petitioner's company to remit the tax liability through monthly installments within time frame stipulated by this Court.

For Petitioner	: Mr.T.Lajapathi Roy
For Respondent	: Mrs.S.Ragaventhre Junior Standing Counsel

COMMON ORDER

Heard the learned counsel for the petitioners and the learned Junior Standing Counsel for the respondent.

2. The petitioner's group of Companies had allegedly suffered loss in one of its centre to an extent of Rs.50,00,00,000/- as a result of which the petitioner was unable to discharge tax liability under the Goods and Services Tax Act, 2017. Under these circumstances, the respondent attached a bank account of the respective petitioner by issuing GST DRC Form, dated 18.02.2022 and 22.02.2022.



3. The learned counsel for the petitioners submits that the petitioners will liquidate the tax liability over a period of time and therefore, the petitioners be given one more opportunity as petitioners are a going concern and have good business in the Logistics and Port Services. The learned counsel for the petitioners further submits that as against the tax liability, the petitioners have also discharged a portion of the tax liability by borrowing the money from the market and will take steps to liquidate the balance by depositing the consolidated amount of Rs.25,00,000/- per month in the ratio of Rs.20,00,000/- and Rs.5,00,000/- each.

4. The learned counsel for the petitioners have placed reliance on the decision of the Hon'ble Supreme court in **Radha Krishnan Industries Vs State of Himachal Pradesh and others** reported in **(2021) 6 Supreme Court Cases 771** wherein the Court addressed to the point regards the power conferred upon the authority under Section 83 of the Central Goods and Services Act and observed it as a drastic measure and far reaching power. It is submitted that power under the said provision should be used sparingly and only on substantive grounds and reasons. The learned counsel for the petitioners submits that the Hon'ble Supreme Court upheld the view of the Gujarat High Court in the case of **Valerius Industries Vs Union of India (2019) 30 GSTL 15: 2019 SCC Online Guj 6866**.

5. On earlier occasion, the petitioners were asked to furnish any security that may be accepted by the respondent at the condition for staying the impugned proceedings. However, the respondents have declined to accept the same stating that the properties which were offered were already the subject matter of the charge with banks and further that the properties also did not belong to the petitioners but to the trust of which one of the Director of petitioners was a trustees.

6. Considering the fact that the petitioner is agreeing to pay consolidated amount of Rs.25,00,000/- per month for discharging/liquidating the tax liability in the respective writ petitions, I am inclined to quash the impugned order and remit the case back to the respondent to pass a speaking order after considering the petitioner's representation. However, this order will come into force only after the petitioner's representation is disposed of by the respondent. The petitioners are therefore directed to give a fresh representation with its offer together with such additional security to protect the interest of the revenue to their satisfaction by 02.05.2022 so that a workable formula for liquidating tax liability of the respective petitioners can be achieved. This exercise shall be carried out by the respondent as expeditiously as possible preferably by 13.05.2022 so that the petitioner will be able to pay salaries to its workers/employees.



7. These writ petitions stand disposed of with the above observations. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

// True Copy //

28/04/2022

Sub Assistant Registrar(CS)

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To

The Commissioner of CGST & Central Excise,
O/o.The Commissioner of CGST & Central Excise,
Central Revenue Buildings,
GST Bhavan, No.4,
Lal Bahadur Shastri Marg,
Bibikulam,
Madurai-625 002.

+ 2 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-21942 & 21943[F] dated 28/04/2022)

+1 CC to M/s.S.RAGAVENTHRE, Advocate (SR-22271[F] dated 28/04/2022)

W.P (MD) .Nos.4779 and 4780 of 2022
27.04.2022

svs (CO)

TR(28.04.2022) 4P 5C