BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)Nos.13190 and 13191 of 2022
and
W.M.P.(MD)Nos.9371 and 9372 of 2022

Bharat Heavy Electricals Limited,
Represented by its Senior Deputy General Manager,
Finance / Indirect Taxation and Bills,
Trichy – 620 014. ... Petitioner in both W.Ps'

Vs.

The Deputy / Assistant Commissioner of GST and Central Excise,
Trichy-I Division,
No.1, Williams Road, Cantonment,
Trichy – 620 001. ... Respondent in both W.Ps'

PRAYER in W.P.(MD)No.13190 of 2022 : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records comprised in Form-GST-RFD-06 signed on 18.03.2022 dated 21.01.2022 and consequential order No.ZQ3303220248194 issued by the Respondent on 19.03.2022 and quash the same as arbitrary, illegal and contrary to law and consequently direct the Respondent to process the refund application of the Petitioner for the year 2018-19 on merits and issue refund of tax.

PRAYER in W.P.(MD)No.13191 of 2022 : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records comprised in Form-GST-RFD-06 signed on 18.03.2022 dated 21.01.2022 and consequential order No.ZN3303220248838 issued by the Respondent on 19.03.2022 and quash the same as arbitrary, illegal and contrary to law and consequently direct the Respondent to process the refund application of the Petitioner for the year 2019-20 on merits and issue refund of tax.

For Petitioner in both W.Ps'	:	Mr.K.Prabhakar
For Respondent in both W.Ps'	:	Mrs.Ragaventhree Standing Counsel

COMMON ORDER

These Writ Petitions have been filed challenging the impugned order dated 21.01.2022, whereby, the Petitioner's claim for refund was rejected on the premise that the application was filed beyond the relevant period under Section 54(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the Act') and reliance was sought to be placed on the Circular No.157/13/2021-GST dated 20.07.2021 issued by the Central Board of Indirect Taxes and Customs which indicates that the time limit cannot be extended, despite pandemic.

2. It is submitted by the learned counsel for the Petitioner as well as the learned Standing Counsel for the Respondent that the above Circular has been superseded vide Notification issued by the Government of India dated 05.07.2022, whereby, the time limit between 01.03.2020 to 28.02.2022 is directed to be excluded for computing the period of limitation for filing refund application under Sections 54 and 55 of the Act.

3. In view of the same, the impugned order dated 21.01.2022 is liable to be set aside and accordingly, it is set aside. The Respondent shall consider the request / application for refund in terms of Sections 54 and 55 of the Act taking into account the Notification No.13 of 2022 – Central Tax, dated 05.07.2022 and pass orders in accordance with law.

4. It is further submitted that insofar as W.P.(MD)No.13191 of 2022 is concerned, the portion of the request for refund has been extended and therefore, the above direction is only with reference to the portion which has been rejected on the ground of limitation.

5. With the above direction, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

14.10.2022

Index : Yes / No
Speaking Order : Yes / No

vji

To

1. The Deputy / Assistant Commissioner of
   GST and Central Excise,
   Trichy-I Division,
   No.1, Williams Road, Cantonment,
   Trichy – 620 001.

2. The Senior Deputy General Manager,
   Bharat Heavy Electricals Limited,
   Finance / Indirect Taxation and Bills,
   Trichy – 620 014 .

MOHAMMED SHAFFIQ, J.

vji

W.P.(MD)Nos.13190 and 13191 of 2022
and
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