BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.15700 of 2022
and
W.M.P.(MD)No.11306 of 2022

M/s.Susee Auto Ltd.,
Rep.by its Managing Director
R.Vadivel Rajan,
109/6-A, Ettayapuram Road,
Tuticorin-628 002. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Tuticorin-1 Assessment Circle,
Tuticorin,
Tuticorin District. ... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records on the file of the Respondent in its proceedings made in TNGST:5820022/2003-2004 dated 09.03.2020 and quash the same.

For Petitioner :Mr.S.Rajasekar
For Respondent :Mr.M.Siddharthan
Additional Government Pleader

ORDER

This writ petition is filed challenging the order dated 09.03.2020, wherein, interest has been levied for delayed payment of entry tax in terms of Section 24(3) of the TNGST Act for the assessment year 2003-04.

2. It is submitted that the petitioner in W.P.(MD).No.4912 of 2006, had filed a writ petition claiming refund of excess payment of Entry Tax. During the pendency of the above writ petition, the impugned order dated 09.03.2020 came to be passed levying interest. Thereafter, the writ petition in W.P.(MD).No.4912 of 2006 has been disposed of vide order dated 08.09.2021. Pursuant to the orders of this Court in W.P.(MD).No.4912 of 2006, dated 08.09.2021, an order dated 02.05.2022 came to be passed, whereby, the petitioner's claim for refund was rejected. As a matter of fact, another writ petition in W.P.(MD).No.12578 of 2022 challenging the rejection of claim for refund was also heard today and orders have been

passed, wherein, directions were issued to the Assessing Officer to re-do exercise considering the petitioner's claim for refund, since it was found that the respondent has proceeded on a misconception of the scope of enquiry which was required to be undertaken pursuant to the above order in W.P.(MD).No.4912 of 2006 dated 08.09.2021.

3.It is submitted by the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent in unison that the outcome of the other Writ Petition would have a material bearing on the levy of interest.

4.In the circumstances, the impugned order is set aside and the respondent is directed to re-do the above exercise, keeping in mind the order of this Court in W.P.(MD).No.12578 of 2022 dated 18.11.2022, as the above proceedings would have a material bearing on the levy of interest. The respondents shall decide the petitioner's claim for refund in terms of W.P.(MD).No.12578 of 2022 and shall thereafter examine the question whether levy of interest would survive and pass orders on merits and in accordance with law, after providing a reasonable opportunity to the petitioner. The above exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

5.With the above direction, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

18.11.2022

Index : Yes / No
Speaking Order : Yes / No
sbn

To

The Assistant Commissioner (ST),
Tuticorin-1 Assessment Circle,
Tuticorin,
Tuticorin District.

MOHAMMED SHAFFIQ, J.

sbn

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