IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **23.02.2023**

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.5422 of 2023 and W.M.P. No.5444 of 2023

M/s.Elgi Equipments Limited,
represented by its Vice President -
Legal & Secretarial,
ShyamVasudevan ... Petitioner

Vs.

The Assistant Commissioner (ST),
Trichy Road Assessment Circle,
Coimbatore – 641 018. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the files of the respondent herein in CST No.299456/2011-12 dated 18.01.2023 and quash the same.

For Petitioner : Mr.N.Prasad

For Respondent : Mr.TNC.Kaushik,
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned assessment order dated 18.01.2023 passed under the CST Act 1956 in respect of the assessment year 2011-12.

2.Earlier, by order dated 15.03.2022, the Joint Commissioner (ST) Appeals, Chennai, quashed the assessment order dated 31.03.2015, pertaining to the very same assessment year 2011-12 and remanded the matter to the respondent for fresh consideration, on merits and in accordance with law.

3.The issue that arises for consideration in the impugned assessment proceedings is whether the petitioner's goods are capital goods or un-specified goods. If it is a case of capital goods, the rate of tax is either 4% or 5% and not more than that. The subject issue has to be re-considered by the respondent pursuant to the order of the Joint Commissioner (ST) Appeals, Chennai dated 15.03.2022.

4.However, as seen from the impugned assessment order dated 18.01.2023, the respondent has observed that since the original assessment file is not available in their office, based on the earlier assessment order dated 31.03.2015, which was quashed by the Appellate Authority namely, the Joint Commissioner (ST) Appeals, Chennai by its order dated 15.03.2022, the respondent has determined the differential tax payable by the petitioner at Rs.31,57,744/- and has not considered the contentions of the petitioner that the case of the petitioner attracts only tax at the rate of 4% or at the maximum 5%. The respondent ought not to have determined the tax liability of the petitioner based on an assessment order dated 31.03.2015, which has already been quashed by the Appellate Authority, namely, the Joint Commissioner (ST) Appeals, Chennai, by its order dated 15.03.2022. By total non application of mind, the impugned assessment order dated 18.01.2023 has been passed in respect of the assessment year 2011-12. Hence, the impugned assessment order has to be quashed and the matter has to be remanded back to the respondent for fresh consideration once again, on merits and in accordance with law within a time frame to be fixed by this Court.

5.For the foregoing reasons, the impugned assessment order dated 18.01.2023 in respect of the assessment year 2011-12 is hereby quashed and the matter is remanded back to the respondent for fresh consideration once again, on merits and in accordance with law. The respondent is directed to pass final orders, within a period of twelve weeks from the date of receipt of a copy of this order, after adhering to the principles of natural justice,

ABDUL QUDDHOSE, J.

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including the grant of personal hearing to the petitioner and after giving due consideration to the objections raised by the petitioner in their reply dated 13.01.2023 and the petitioner is also directed to produce additional documents with the respondent in respect of their contentions.

6.With the above directions, this writ petition stands disposed of. No costs. Consequently, connected W.M.P. stands closed.

23.02.2023

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To

The Assistant Commissioner (ST),
Trichy Road Assessment Circle,
Coimbatore – 641 018.

W.P.No.5422 of 2023 and W.M.P. No.5444 of 2023