IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2023

CORAM :

The HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.Nos.6072 & 6076 of 2023
W.M.P.Nos.6101, 6103, 6110 & 6112 of 2023

W.P.No.6072 of 2023

M/s Aiswarayam Oil Mills
Rep by its Proprietor,
Mr.Satheesh Kumar,
Having its registered office at:
No.55/1, Thandukarai Street,
Manavely, Villanur,
Puducherry – 605 110. .. Petitioner

vs

1.The Office of the Commissioner of GST & Central Excise,
Puducherry Commissionerate,
1, Goubert Avenue, Puducherry – 605 001.

2.The Assistant Commissioner of GST & Central Excise,
Division II Puducherry,
No.14, Municipal Street,
Azeez Nagar, Reddiarpalayam,
Puducherry – 605 010.

3.The Superintendent of GST & Central Excise,
Division II D, Puducherry,
No.14, Municipal Street, Azeez Nagar,
Reddiarpalayam, Puducherry – 605 010. .. Respondents

W.P.No.6076 of 2023

M/s Sri Sabari Flour & Oili Mills,
Rep by its Proprietor,
Mrs.Yamuna Devi,
Having its registered office at:

R.S.No.29/9, 1st Cross,
Thiruveni Nagar, V.Manavely,
Arumparthapuram
Puducherry – 605 110. .. Petitioner

vs

1.The Office of the Commissioner of GST & Central Excise,
Puducherry Commissionerate,
1, Goubert Avenue, Puducherry – 605 001.

2.The Assistant Commissioner of GST & Central Excise,
Division II Puducherry,
No.14, Municipal Street,
Azeez Nagar, Reddiarpalayam,
Puducherry – 605 010.

3.The Superintendent of GST & Central Excise,
Division II D, Puducherry,
No.14, Municipal Street, Azeez Nagar,
Reddiarpalayam, Puducherry – 605 010. .. Respondents

Prayer in W.P.No.6072 of 2023: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records pertaining to the Impugned order dated 18.11.2022 bearing C.No. ADJ/ GST/ 15/ 2022-CGST regarding payment of short-paid tax U/s.73 of GST Act by the petitioner during the period of July 2017 to June 2021 passed by the 2nd respondent and quash the same and consequently direct the 2nd respondent to consider rate of GST for the oil supplied by the petitioner under Sub-Heading Tariff Item 1511 instead of wrong classification under sub heading 1518.

Prayer in W.P.No.6076 of 2023: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records pertaining to the Impugned order dated 22.11.2022 bearing C.No. ADJ/ GST/ 75/ 2022-CGST regarding payment of short-paid tax U/s.73 of GST Act by the petitioner during the period of July 2017 to June 2021 passed by the 2nd respondent and quash the same and consequently direct the 2nd respondent to consider rate of GST for the oil supplied by the petitioner under sub-Heading Tariff Item 1511 instead of wrong classification under sub heading 1518.

For Petitioner	:	Mr.Ramesh Kumar Chopra (in W.P.No. 6072 of 2023) Mr.Pranav Jain (in W.P.No.6076 of 2023)
For Respondents	:	Mr.Rajendran Raghavan Standing Counsel (Pondy) (in both writ petitions)

COMMON ORDER

Mr.Pranav Jain, learned counsel on record makes an endorsement to the effect that the petitioner prefers to approach the first appellate authority in terms of Section 107(1) of the Central Goods & Services Tax Act, 2017 by way of statutory appeal. The period for appeal is stipulated in terms of Section 107(4) which is 90 days from date of receipt of the order.

2. The impugned order of adjudication is dated 18.11.2022 which means that the appellate period stretches till 18.02.2022. There is a further period of 30 days provided within which the appellate authority may exercise discretion to condone delay.

3. The writ petitions have been instituted on 23.02.2023 within the period of 30 days and Mr.Rajendran Raghavan, would

thus and fairly, not raise any dispute on the aspect of delay. Thus and seeing as the writ petitions have been filed within the statutory period of limitation, though extended, the petitioners are permitted to file an appeal before the first appellate authority and are granted a period of two weeks from the date of receipt of a copy of this order for that purpose. If appeal is filed as aforesaid, it shall be taken on file by the appellate authority without reference to limitation but subject to the statutory pre-deposit of 10% of the disputed demand accompanying the appeal.

4. With this, and in terms of Section 107(7) which states that where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance shall be deemed to be stayed, the question of further recovery does not arise. The impugned order of recovery would thus go, subject to the petitioner filing an appeal and remitting the pre-deposit as aforesaid.

5. These writ petitions are dismissed, with liberty. No costs. Consequently, connected miscellaneous petitions are dismissed.

06.03.2023

Index:Yes/No
Neutral Citation:Yes
ssm

To

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DR. ANITA SUMANTH,J.

ssm

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