IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2023

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.14246 of 2021

M/s.Kwangjin India Autosystems Pvt. Ltd.
Rep. by its Accounts Manager,
Mr.S.Subbiah ... Petitioner

Vs.

1.The Assistant Commissioner,
Office of the Deputy Commissioner of GST and Central Excise,
Sriperumbudur Division,
Chennai Outer Commissionerate,
C-48, TNHB Building, Second Avenue,
Anna Nagar, Chennai-600 040.

2.The Branch Manager,
HDFC Bank,
No.84 A, Bangalore High Road,
Sriperumpudur-602 106,
Kanchipuram District.

3.The Principal Commissioner,
Chennai Commissionerate,
No.26/1, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the Respondents 1 to 3 herein to release the bank guarantee given by the petitioner as mandated by the order of this Court dated 01.08.2019 in W.P.No.17393 of 2019 for a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) bearing no.0009BGFD003620 deposited on

31.08.2019 in favour of Assistant Commissioner, Office of the Deputy Commissioner of GST and Central Excise, Sriperumbudur Division, Chennai Outer Commissionerate, Chennai-600 040.

For Petitioner	:	Ms.P.Jayalakshmi
For Respondent	:	Mr.V.Sundareswaran Senior Panel Counsel (for R1 and R3) Mr.C.Senapathi (for R2)

ORDER

This is the second round of litigation. The present writ petition is filed praying for a writ of Mandamus to direct the Respondents 1 to 3 to release the Bank guarantee furnished by the petitioner, pursuant to the directions of this Court in W.P.No.17393 of 2019 dated 01.03.2019 wherein the correctness of the levy of interest under Section 50 of the Goods and Services Act, 2017, (hereinafter referred to as "the Act") was challenged on the premise that the non-payment was only due to technical glitches. This Court was pleased to direct furnishing security for a sum of Rs.25 lakhs while also directing the I.T. Grievance Redressal Committee to inform whether at all there was a technical glitch. More than 3 years have passed since, however, there is no enquiry by the I.T. Grievance Redressal Committee.

2. It is not certain as to the status of proceedings before the I.T. Grievance

Redressal Committee. While so, there was an amendment to Section 50 of the Act, which according to the petitioner may render the exercise futile inasmuch as it provides for levy of interest only in case of payment through electronic credit ledger.

3. As a matter of fact, a representation was made earlier and the same was also rejected, which is the subject matter of challenge in the writ petition.

4. I do not intend to go into the correctness of the submissions made by the learned counsel for the petitioner. It is submitted by the learned counsel for the Respondents that regarding the pendency before the I.T. Grievance Redressal Committee or rather the status thereof, there is no instructions pursuant to the directions of this Court, instead would submit that the petitioner may submit a fresh representation wherein the impact of the amendment to Section 50 of the Act may be raised and the same shall be disposed of. The learned counsel for the petitioner does not have any serious objections to the same.

5. Considering the submissions made on either side, this Court is of the view

that the petitioner may be at liberty to file a fresh representation wherein it shall be open to them to rely upon the Amendment to Section 50 of the Act and also make a representation to the I.T. Grievance Redressal Committee to pass orders in terms of the above directions in the earlier writ petition. In the representation, it is also open to the petitioner to submit as to how the examination of the issue relating to technical glitches has become irrelevant in the wake of amendment to Section 50 of the Act. Any such representation, if made by the petitioner shall be decided and orders be passed in accordance with law, after hearing the petitoner within a period of 6 weeks from the date of receipt of a copy of such representation.

6. With the above direction, the writ petition stands disposed of. No costs.

03.11.2023

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No
Mka/ Spp

To:

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MOHAMMED SHAFFIQ, J.

Mka / Spp

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