IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2023

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. Nos.18949 and 18954 of 2021
and
W.M.P. Nos.20221 and 20219 of 2021

M/s.India Pistons Ltd.,
Represented by its Director,
Huzur Garden, Sembium,
Chennai-600 011. ...Petitioner in both writ petitions

Vs.

The Assistant Commissioner (ST)(FAC),
Villivakkam Assessment Circle,
Chennai-600 099. ...Respondent in both writ petitions

PRAYER in W.P.No.18949 of 2021 : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the respondent in his proceedings in CST No.27502/2016-17, quash the assessment order dated 22.02.2021 passed therein insofar as it relates to levy of higher rate of tax at 14.5% on the inter-state sales turnover not covered by C-declaration forms.

PRAYER in W.P.No.18954 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the respondent in his proceedings in CST No.27502/2017-18, quash the assessment order dated 05.11.2020 passed therein insofar as it relates to levy of higher rate of tax at 14.5% on the inter-state sales turnover not covered by C-declaration forms.

For Petitioner in both W.Ps. : Mr.B.Raveendran

For Respondent in both W.Ps. : Ms.Amirtha Dinakaran
Government Advocate

<u>COMMON ORDER</u>

These writ petitions have been filed challenging the orders of assessment wherein high rate of tax has been levied on turnover of Rs.2,57,13,099/- and Rs.10,06,67,956/- for the assessment years 2016-17 and 2017-18 respectively.

2. It is submitted by the learned counsel for the Respondent that the higher rate of tax was levied only on the basis that the petitioner had expressed his willingness to have the above turnover assessed at a higher rate of tax.

3. To the contrary, it is submitted by the learned counsel for the petitioner that in response to the notice, the petitioner had only sought for time to submit the C-declaration forms as would be evident from the following extracts from the reply dated 05.10.2020.

> *"Ref:PSM/AP/CST 2016-17:1*
> *Date: 05.10.2020*
> *.......*
> *We are still expected some C forms to be received from Customers due to Covid 19 it is getting delayed.*
> *We request you to give us some time to produce the balance C.Forms to complete the Assessment."*

> *"Ref:PSM/AP/CST 2017-18:1*
> *Date: 05.10.2020*
> *........*
> *We are still expected some C forms to be received from Customers due to Covid 19 it is getting delayed.*
> *We request you to give us some time to produce the balance C.Forms to complete the Assessment."*

4. This Court finds that the impugned orders suffer from error apparent on the face of the record / non-application of mind to the objection filed by the petitioner.

5. It is submitted by the learned counsel for the petitioner that now they have C-forms available with them and sought time to submit the same.

6. In view of the same, the petitioner is directed to submit the C-Declaration Form within a period of 6 weeks from the date of receipt of a copy of this order, in which event, the Respondent would consider the same and pass appropriate orders on merit in accordance with law within a period of 8 weeks thereafter. In the event of the petitioner failing to furnish the C-Declaration form within the time stipulated, the impugned orders would stand restored.

7. With the above direction, the writ petitions are disposed of. No costs. Consequently, connected writ miscellaneous petitions are closed.

14.07.2023

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

To:
The Assistant Commissioner (ST)(FAC),
Villivakkam Assessment Circle,
Chennai-600 099.

MOHAMMED SHAFFIQ, J.

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