IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26330 of 2023
and
W.M.P.Nos.25741 and 25744 of 2023

US Minerals,
By its Proprietor,
K.Uma Shankar,
No.5/166-2, Kamaraj Nagar,
Kanthal Backside,
SIPCOT P.O, Hosur - 635 126. ... Petitioner

Vs

1.The Deputy State Tax Officer-2,
Hosur North-I,
Hosur.

2.The Assistant Commissioner (ST),
Hosur North-I,
Hosur.

3.The Deputy Commissioner (ST),
GST Appeal,
Salem. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the connected records of the 1st Respondent herein in his order dated

17.09.2021 in GSTIN:33AANPU1477G1ZE/2017-18 and quash the same and consequentially direct the 1st Respondent herein to accept the availment of input tax credit as per the final return filed under Acknowledgment No.30100007109957 dated 19.07.2017 under TNVAT.

For Petitioner : Mr.Manoharan Sundaram

For Respondents : Mr.TNC.Kaushik
Additional Government Pleader

ORDER

Mr.TNC.Kaushik, learned Additional Government Pleader takes notice on behalf of the respondents.

2.The petitioner has challenged the impugned order passed on 17.09.2021. The writ petition has been filed on 31.08.2023. The writ petition is opposed by the learned Additional Government Pleader for the respondents in the light of the decision of the Hon'ble Supreme Court in **Assistant Commissioner (CT) LTU, Kakinada and others** Vs. **Glaxo Smith Kline Consumer Health Care Limited**, 2020 SCC Online SC 440.

3.The learned counsel for the petitioner submits that the petitioner was unaware of the proceedings and the impugned order and the notices which preceded the impugned order as they were not served on the petitioner and were only hosted in the website and therefore the entire proceedings went un-noticed. It is submitted that only after the petitioner received recovery notice, the petitioner came to know about the passing of the impugned order and thus approached this Court. This explanation of the petitioner appears to be highly improbable.

4.Be that as it may, considering the fact that the petitioner is willing to produce the requisite documents to substantiate that credit of Rs.18,95,750/- was validity transmitted under Section 140 of the GST Act, 2017, Court is inclined to set aside the impugned order and remits the case back to the 1st respondent to pass a fresh order on merits subject to the petitioner depositing 25% of the disputed tax amount before the respondents within a period of 30 days from the date of receipt of a coy of this order. It is made clear that in case the petitioner fails to comply with the above condition, the respondents are at liberty to proceed against the petitioner, as if no order was passed by this Court. In other words, the concession granted in this order shall stand automatically vacated *sine die*. Needless to state before passing such order the petitioner shall also be heard.

5.This writ petition stands disposed of. No costs. Consequently, connected writ miscellaneous petitions are closed.

08.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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To

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Hosur North-I,
Hosur.

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C.SARAVANAN, J.

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