IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.27678 of 2023
and
W.M.P.No.27150 of 2023

Trans Car India P Ltd.,
Rep. by its General Manager (Legal Affairs),
Mr.VijayaRaghavan,
80/81, Ambattur Industrial Estate,
Chennai – 600 058. ... Petitioner

Vs.

1. The Additional Commissioner,
GST – Chennai South Commissionarate,
Office of the Commissioner of GST & Central Excise,
M.H.U. Complex, 692, Anna Salai,
Nandanam, Chennai – 600 035.

2. The Additional Director,
DGGI,
Chennai Zonal Unit,
5th Floor, Tower-II, BSNL Building,
No.16, Greams Road,
Chennai – 600 006. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on files of 1st respondent in his proceedings being impugned proceedings in GEXCOM/ADJN/GST/ADC/569/2022 Order-in-original No.25/2023(DGGI) dated 31.05.2023 and quash the same as arbitrary and without jurisdiction, hence invalid, illegal and unconstitutional.

For Petitioner : Mr.T.V.Lakshmanan

For Respondents : Mr.Sai Srujan Tayi
Senior Standing Counsel
for R1
Mr.V.Sundareswaran
Senior Standing Counsel for R2

ORDER

Mr.Sai Srujan Tayi, learned Senior Standing Counsel takes notice on behalf of the first respondent and Mr.V.Sundareswaran, learned Senior Standing Counsel takes notice on behalf the second respondent.

2. The petitioner is aggrieved by the impugned Order-in-Original No.25 of 2023 (DGGI) dated 31.05.2023 passed by the 1st respondent. By the impugned order, the respondents have appropriated the amounts paid by the petitioner towards tax liability determination and has imposed

penalty and interest under the provisions of the CGST, SGST, IGST Act, 2017.

3.A reading of the impugned order indicates that there is a variance between the amount declared towards outward supply in petitioner's GSTR 1 and the amount declared towards outward supply in GSTR 3B return. The petitioner has discharged the tax liability of Rs.9,95,71,642/-, whereas, the respondents on the other hand have taken a stand that the petitioner is liable to pay sum of Rs.10,10,60,012/-. Thus, there is a difference of Rs.14,88,370/-. There are several disputed question of fact involved in this case. Therefore, the writ petition is not maintainable. The petitioner has an alternate remedy to challenge the same before the Appellate Authority under Section 107 of the CGST Act, 2017.

4.Therefore, Court is inclined to dispose this writ petition by giving liberty to the petitioner to challenge the impugned Order-in-Original No.25/2023 (DGGI) dated 31.05.2023 passed by the first respondent, within a period of thirty days from the date of receipt of a copy of this order. The petitioner shall deposit 10% of Rs.14,88,370/- towards pre-deposit along with the proposed appeal.

5.This writ petition stands disposed of with the above liberty. No costs. Consequently, connected writ miscellaneous petition is closed.

22.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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<u>Note:</u> Registry is directed to return the original copy of the impugned order. All the issues are left open to the petitioner before the Authority.

To

1. The Additional Commissioner,
   GST – Chennai South Commissionarate,
   Office of the Commissioner of GST & Central Excise,
   M.H.U. Complex, 692, Anna Salai,
   Nandanam, Chennai – 600 035.

2. The Additional Director,
   DGGI,
   Chennai Zonal Unit,
   5th Floor, Tower-II, BSNL Building,
   No.16, Greams Road,
   Chennai – 600 006.

C.SARAVANAN, J.

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