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W.P.No.30217 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.30217 of 2023

M/s. Sri Varahi Chemicals,
rep. by its Partner Mr.P.Sanjeev Kumar Jain

...Petitioner

Vs.

1. The Assistant Commissioner (ST)
Adjudication, Intelligence 1, Chennai – 600 006.
2. The Deputy State Tax Officer,
Roving Squad-IX, Intelligence 1,
Chennai – 600 006.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for records of adjudication order No.905/2022-23 ADJ by the first respondent dated 29.03.2023 and to quash the same and consequently, to direct the respondent to refund the tax collected.



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For Petitioner : Mr.R.Ramkumar

For Respondents : Mrs.K.Vasanthamala
Government Advocate

ORDER

With consent, the main Writ Petition itself is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the adjudication order passed by the first respondent dated 29.03.2023 and to quash the same and consequently, to direct the respondent to refund the tax collected.

3. Mr.R.Ramkumar, learned counsel appearing for the petitioner seeks permission of this Court to withdraw this Writ Petition granting liberty to the petitioner to file an appeal before the Appellate Authority.

4. Mrs.K.Vasanthamala, learned Government Advocate for the respondent raised strong objection for withdrawal of this Writ Petition by stating that challenging the very same impugned order, the petitioner filed



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Writ Petition in W.P.No.29744 of 2023 and made a request before this Court for withdrawal of the case and this Court also acceding to the request made by the learned counsel for the petitioner, vide order dated 13.10.2023 permitted the petitioner to withdraw the Writ Petition granting liberty to file approach the Appellate Authority and once again, the petitioner has filed this Writ Petition in respect of very same impugned order.

5. However, the learned counsel appearing for the petitioner clarified that the order, which was under challenge in earlier Writ Petition, viz., W.P.No.29744 of 2023, was in regard to Adjudication Order, bearing No.906/2022-23, whereas, in the present Writ Petition the challenge is to the Adjudication Order, bearing No.905/2022-23 and he also produced a photostat copy of the order passed by this Court in W.P.No.29744 of 2023, dated 13.10.2023 for reference. Therefore, the learned counsel would submit that the order impugned in present Writ Petition is different from the order impugned in earlier Writ Petition, and hence, requested this Court to grant permission to withdraw with liberty as sought for above.



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6. The learned Government Advocate harped on the same point stating that the order impugned in present Writ Petition and earlier Writ Petition is one and the same.

7. This Court, in order to find out whether the order impugned in this Writ Petition and earlier Writ Petition is different or one and the same, sought for production of files related to impugned orders in both the Writ Petitions and on perusal of the same, it is found that the order impugned in present Writ Petition is passed by respondent, Mr.Krishna Moorthy, bearing Adjudication No.905/2022-23, whereas, the order impugned in earlier W.P.No.29744 of 2023 is passed by one Mr.Selvam, bearing Adjudication No.906/2022-23. Therefore, this Court is of the view that both the order impugned in this Writ Petition and earlier Writ Petition are different and even the Adjudication No. also differs. Hence, this Writ Petition is dismissed as withdrawn. However, liberty is granted to the petitioner to file Appeal before the Appellate Authority within a period of 15 days from the

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date of receipt of a copy of this order. As and when, such an Appeal is filed, the Appellate Authority shall entertain the Appeal without raising the issue of limitation. No costs.

18.10.2023

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Index : yes/no

Neutral Citation : yes/no

To

1. The Assistant Commissioner (ST)
Adjudication, Intelligence 1, Chennai – 600 006.
2. The Deputy State Tax Officer,
Roving Squad-IX, Intelligence 1,
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Krishnan Ramasamy,J.,

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