IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2023

C O R A M

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition Nos.31986, 31988 & 31992 of 2022
and
W.M.P.Nos.31426, 31428, 31431, 31432, 31438 & 31439 of 2022

M/s.Ojus Power & Technologies Private Limited,
represented by its Authorized Signatory -
M.Gunasekaran,
944, 945, Thorappalli Road,
Moranapalli, Hosur,
Hosur - 635 109.
Krishnagiri District. ... Petitioner in all W.Ps.

Vs.

The Assistant Commissioner (ST),
Hosur (South)-II,
Hosur, Krishnagiri District. ... Respondent in all W.Ps.

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records on the file of the respondent in its impugned proceedings made in Form GST DRC - 07 - (Summary of the order) - (i) Reference No.ZD330922035267F for the financial year 2017-18 dated 27.09.2022; (ii) Reference No.ZD330922035306L for the financial year 2018-19 dated 27.09.2022 and (iii) Reference No.ZD330922035356G for the financial year 2019-20 dated 27.09.2022.

For Petitioner [in all W.Ps.]	:	Mr.S.Rajasekar
For Respondent [in all W.Ps.]	:	Ms.Amirta Poonkodi Dinakaran Government Advocate

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COMMON ORDER

These writ petitions have been filed seeking quash of the impugned proceedings of the first respondent made in Form GST DRC - 07 - (Summary of the order) - (i) Reference No.ZD330922035267F for the financial year 2017-18 dated 27.09.2022; (ii) Reference No.ZD330922035306L for the financial year 2018-19 dated 27.09.2022 and (iii) Reference No.ZD330922035356G for the financial year 2019-20 dated 27.09.2022.

2. The case of the petitioner is that the petitioner is the manufacturer of generating sets which produces electricity at Hosur. Petitioner is an assessee on the file of the respondent in GSTIN No.33AABCO1709L1ZL. An audit was conducted at the business

premises of the petitioner as per the proceedings of the Joint Commissioner (ST), Salem, in Roc.No.6983/2021-A12-3, dated 20.09.2021 and the audit was concluded on 29.03.2021. During the course of audit, certain discrepancies were noticed. The respondent has issued Form GST DRC-01A u/s.73(1) of the TNGST Act for the financial years 2017-18, 2018-19 and 2019-20 dated 30.04.2022 intimating the tax payable. The petitioner has filed their objections dated 19.05.2022. The respondent issued Summary of Show Cause notice dated 23.08.2022 and thereafter, issued the Summary Order, dated 27.09.2022. Challenging the same, the present writ petitions have been filed.

3. Heard Mr.S.Rajasekar, learned counsel appearing for petitioner and Ms.Amirta Poonkodi Dinakaran, learned Government Advocate, appearing for respondent.

4. Learned counsel for petitioner submitted that the main grievance of the petitioner is that only the Summary Order has been uploaded and the detailed order has not been uploaded, owing to which the petitioner is unable to challenge the same.

5. Learned Government Advocate appearing for the respondent fairly submitted that only the Summary Order has been uploaded. She has also produced the detailed order dated 27.09.2022 and submitted that though the order was dated 27.09.2022, it was signed by the concerned officer only on 27.04.2023. In view of the same, the matter may be remitted back to the authorities concerned for the purpose of re-adjudication.

6. This Court has considered the rival submissions and perused the materials available on record.

7. On a perusal of the detailed order dated 27.09.2022, this Court finds that the order has been signed by the Assistant Commissioner (ST), Hosur (South-2) only on 27.04.2023. In such circumstances, this Court passes the following order:

(i) The impugned order dated 27.09.2022 is set aside. The matter is remitted back to the authorities concerned for the purpose of re-adjudication;

(ii)Petitioner is permitted to file reply, if any, in addition to the reply filed earlier by the petitioner in Form GST DRC-01A within a period of thirty (30) days from the date of receipt of a copy of this order;

(iii)The respondent is directed to afford an opportunity of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law taking into account the submission of the petitioner.

These Writ Petitions are disposed of with the above direction. No costs. Connected W.M.P.Nos.31426, 31431 and 31438 of 2022 are ordered and W.M.P.Nos.31428, 31432 and 31439 of 2022 are closed.

22.11.2023

Index: Yes/No
Speaking Order/Non-speaking Order
Neutral Citation: Yes/No
gm

To
The Assistant Commissioner (ST),
Hosur (South)-II,
Hosur, Krishnagiri District.

KRISHNAN RAMASAMY, J

gm

Writ Petition Nos.31986, 31988 & 31992 of 2022