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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD) No. 6482 of 2021
and
W.M.P. (MD) No. 5058 of 2021

M/s.Laxmi Marbles,
Rep. By its Proprietrix,
N.Rekha. ... Petitioner

Vs.

The State Tax Officer,
Kumbakonam Rural Assessment Circle,
Kumbakonam,
Thanjavur District. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Certiorari to call for the records of the respondent in GSTN 33AFQPR2012A1ZZ/2017-2018 dated 30.11.2020 which was received by the Petitioner on 20.01.2021 and quash the same as illegal, arbitrary and against the provisions of the Act.

For Petitioner : Mr. K.Soundararajan

For Respondent : Mr. K.S.Selvaganesan
Additional Government Pleader

O R D E R

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Heard Mr. K.Soundararajan, Learned Counsel for the Petitioner and Mr. K.S.Selvaganesan, Learned Additional Government Pleader for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Respondent by Proceedings No. GSTN 33AFQPR2012A1ZZ/ 2017-2018 dated 30.11.2020 has determined the reversal of input credit along with interest for September 2017 which is impeached in this Writ Petition.

3. Learned Counsel for the Petitioner contends that in respect of similarly palced persons, this Court in ***M/s.DMR Constructions -vs- the Assistant Commissioner*** (Order dated 26.02.2021 in W.P. Nos. 9991 of 2020 etc., batch) has set aside the impugned order therein and held that those persons were entitled to transition TDS under the Tamil Nadu Value Added Tax Act, 2006 in terms of Section 140 of the Tamil Nadu Goods and Services Act, 2017, and that the Petitioner also has to be extended that benefit.

4. At this juncture, reference must be made to the dictum of the Hon'ble Supreme Court of India in ***State of Uttar Pradesh -vs- Arvind Kumar***

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Srivastava [(2015) 1 SCC 347], where it has been held as follows:-

"22.1. Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently."

It would, thus, be evident that the obligation is cast upon the concerned authorities to have on their own accord extended the same benefit to all similarly placed persons, if they are eligible for the same.

5. Having regard to the aforesaid legal position, the following order is passed:-

(i) the impugned order in GSTN 33AFQPR2012A1ZZ/ 2017-2018 dated

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30.11.2020 passed by the Respondent is set aside and the matter is remitted for fresh consideration;

(ii) the Respondents shall immediately examine whether the Petitioner is entitled to the same benefit granted in the order dated 26.02.2021 in W.P. Nos. 9991 of 2020 etc., batch by this Court;

(iii) if it is found that any details or supporting documents satisfying the eligibility criteria for the benefits claimed has not been produced, the deficiencies in that regard shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not less than 15 clear working days in that regard;

(iv) in the event of not being satisfied with the requirements thereafter, an enquiry shall be conducted following the prescribed procedure affording opportunity of personal hearing to each of the Petitioner to explain her position in that regard and a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated to each of the Petitioner by 31.10.2023 under written acknowledgment; and

(v) if the Petitioner still have any grievance thereafter, she is not precluded from working out her rights before the proper forum in the manner

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recognized by law.

Though obvious, it is made clear that no view has been expressed by this Court on the merits of the controversy involved in the matter.

In the result, the Writ Petition is disposed on the aforesaid terms. No costs. Consequently, connected miscellaneous petition is closed.

27.02.2023

(2/2)

NCC : Yes/No
Index : Yes/No
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Note: Issue order copy by 14.08.2023.

To

The State Tax Officer,
Kumbakonam Rural Assessment Circle,
Kumbakonam,
Thanjavur District.

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P.D.AUDIKESAVALU,J.

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