BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.23178 of 2023
and
W.M.P.(MD).No.19386 of 2023

Tvl.Siva Automative Trading
Private Limited,
Represented by its Director
Mr.A.Veeramani,
No.2C, Gate Lock Road,
Madurai-625 009. ... Petitioner

Vs.

The Assistant Commissioner(ST),
Kamarajar Salai Assessment Circle,
Madurai. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the impugned assessment order on the file of respondent vide TIN:33764823338/2013-14 (Entry Tax), dated 28.08.2023 and quash the same as illegal and devoid of merits.

For Petitioner : Mr.Raja Karthikeyan

For Respondent : Mr.A.K.Manikkam,
Special Government Pleader

ORDER

This Writ Petition is filed for Writ of Certiorari, to quash the impugned order dated 28.08.2023.

2. The petitioner is an authorized Maruti Car dealer (Maruti Suzuki India Limited) and selling spare parts for the motor cars and running a business in the name and style of "Tvl.Siva Automative Trading Private Limited". The petitioner has paid the tax when the vehicle entered the State under Tamil Nadu Tax on Entry on Motor Vehicles to Local Area Act, 1990. The petitioner has to pay TNVAT to the tune of 14%.

3. The contention of the petitioner is that he can claim Input Tax Credit, but the respondents decline that the petitioner is not entitled to claim Input Tax Credit. The further contention of the petitioner is that for the financial year 2013-2014 the petitioner had received only 372 cars, but the respondents have taken as 503 cars. Moreover, after prolonged litigation the assessment order was passed after ten years, without granting personal hearing. Therefore, this Court

is of the considered opinion that there is violation of the principles of natural justice and hence this Court is inclined to quash the impugned order and accordingly quashed.

4. The respondent has stated that in the impugned order that the Entry Tax ought to pay by the petitioner to the tune of Rs.49,14,847/- (Rupees Forty Nine Lakhs Fourteen Thousand Eight Hundred and Forty Seven only), the penal interest is Rs.1,07,47,248 (Rupees One Crore Seven Lakhs Forty Seven Thousand Two Hundred and Forty Eight only). Therefore, the total claim of the respondent along with the penal interest is Rs. 1,56,62,095/- (Rupees One Crore Fifty Six Lakhs Sixty Two Thousand and Ninety Five only).

5. This Court is inclined to direct the petitioner to pay a portion of tax alone. Therefore, the petitioner is directed to pay Rs.7,50,000/- (Rupees Seven Lakhs Fifty Thousand only) to the respondent within a period of four weeks (4) from the date of receipt of a copy of this order. On such payment, the respondent is directed to conduct fresh enquiry and afford personal hearing to the petitioner. The petitioner is at liberty to raise the limitation of question as well.

6. In view of the above, this Writ Petition is allowed in above terms. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

25.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Sml

To

The Assistant Commissioner(ST),
Kamarajar Salai Assessment Circle,
Madurai.

S.SRIMATHY, J.

Sml

W.P.(MD).No.23178 of 2023

25.09.2023