BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.28508 of 2022
and
W.M.P(MD) Nos.22514 and 22516 of 2022

M/s.Dhanalakshmi Srinivasan Sugars Private Limited,
Represented by its Executive Director,
Mr.N.Chinnappan,
Udumbian Village,
Veppanthattai Taluk,
Perambalur-621212. ... Petitioner

Vs.

1.Commissioner of GST & Central Excise,
No.1, Williams Road, Cantonment,
Tiruchirappalli-620001.

2.Commissioner of Central Excise and
Service Tax,
No.1, William Road, Cantonment,
Tiruchirappalli-620001. ... Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, calling for the records on the file of the second respondent in the impugned show cause notice in

C.No.V/Ch.17/15/62/2010-Cx.Adj. dated 08.12.2010 and quash the same as illegal and not in accordance with law.

For Petitioner : Mr.R.Sivaraman

For Respondents : Mr.S.Nandakumar
Senior Panel Counsel
Assisted by
Mrs.S.Ragaventre
Junior Standing Counsel

COMMON ORDER

The above writ petition is filed questioning the show cause notice issued by the second respondent in C.No.V/Ch.17/15/62/2010-Cx.Adj. Dated 08.12.2010.

2. The show cause notice has been issued asking the petitioner to show cause as to why CENVAT credit availed on capital goods used in co-generation plant should not be demanded under the relevant provisions together with interest and penalty. This very same issue has

formed the subject matter of the order passed by the Office of the Commissioner of GST and Central Exercise in Original No. 08/COMMR/CE/2023, in the case of M/s.EID Parry (India) Limited, Pugalur Sugar Factory, Pugalur, dated 31.03.2023. After considering the various arguments and the judgments, ultimately, the Commissioner has held that the petitioner therein is entitled to the CENVAT credit in respect of machineries and other items used in Captive Power Plant. Therefore, the same yardstick has to be applied to the cases on hand.

3. The learned Senior Panel Counsel appearing for the respondents would submit that since it is the show cause notice, this representation can be directly made before the Officer concerned.

4. On the submissions of both counsels, this Writ Petition is disposed of with a direction that the official of the petitioner shall appear before the Commissioner of GST and Central Excise/first respondent on 12.07.2023 at about 11.30 a.m. The first respondent shall follow the order dated 31.03.2023 passed in Original No.08/COMMR/CE/2023 and

allow the CENVAT credit in respect of the machineries that the petitioner used in their co-generation/captive power plant. The said order shall be passed within a period of two weeks from the date of appearance. No costs. Consequently, connected miscellaneous petitions are closed.

28.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
cp

P.T.ASHA, J.

cp

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