IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:**30.01.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.1764 of 2024
and W.M.P.Nos.1817 & 1818 of 2024

Brakes India Private Limited,
Represented by its
Executive Director – Finance & CFO,
Mr.G.Shankar,
MTH Road, Padi,
Chennai-600 050. ... Petitioner

-vs-

Assistant Commissioner (ST),
Ambattur Assessment Circle,
Integrated Buildings Commercial Taxes and
Registration Department,
South Tower, Room No.322,
3rd floor, Nandanam,
Chennai-600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order dated 20.12.2023 with the reference GSTIN 33AAACB2533Q1ZP/2017-2018 in the files of the respondent, quash the same and direct the respondent to enter de novo adjudication and pass fresh orders after giving the petitioner a reasonable opportunity of hearing.

For Petitioner : Mr.Vijay Narayan, Senior Counsel for Mr.N.Murali

For Respondent : Mr.C.Harsha Raj, Additional Government Pleader (T)

ORDER

This writ petition is directed against the assessment order dated 20.12.2023 relating to the years 2017-2018.

2. The petitioner asserts that it carries on business at Padi and that its office and factory at Padi were flooded on account of cyclone Michaung in December 2023. As a consequence, it is submitted that the petitioner was unable to place all relevant documents on record and make effective submissions.

3. Mr.Vijay Narayan, learned senior counsel for the petitioner, invited my attention to photographs depicting the condition of the factory and office of the petitioner. In particular, he pointed out that the records of the

petitioner were also badly affected by the floods. By referring to an e-mail issued by the petitioner on 11.12.2023 in respect of financial year 2018-2019, he submits that further time was requested by the said communication and that the said petitioner failed to send a similar communication inadvertently as regards the financial year 2017-2018. In view of the force majeure situation, he requests for another opportunity for the petitioner to contest the claims.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice on behalf of the respondent. He submits that these are the second round of proceedings and that pursuant to the first round of proceedings, the petitioner had admitted liability under four heads.

5. On examining the impugned order, it is evident that the petitioner's tax liability under 19 heads was determined. These include heads 3, 4, 5 and 18, which are set out in the submissions before the Assistant Commissioner (ST), Ambattur Assessment Circle, which is at page No.221 of the typed set.

6. The documents on record clearly indicate that the petitioner's office and factory were affected during the relevant period by a force majeure event. Even otherwise, judicial notice may be taken of the said event. In view thereof, the interest of justice demands that a further opportunity be provided to the petitioner. As regards the heads in relation to which the petitioner admitted its liability, re-adjudication is not necessary.

7. For reasons set out above, the impugned order is quashed in respect of 15 heads excluding heads 3, 4, 5 and 18. As regards the 15 heads in respect of which the order is quashed, the assessing officer shall provide a reasonable opportunity to the petitioner and thereafter issue a fresh assessment order. The petitioner is permitted to file any additional documents and submissions in this regard within a maximum period of three weeks from the date of receipt of a copy of this order. Upon receipt thereof, the respondent shall issue a fresh assessment order after providing a personal hearing to the petitioner within four weeks thereafter.

8. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

30.01.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

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To

Assistant Commissioner (ST),
Ambattur Assessment Circle,
Integrated Buildings Commercial Taxes and
Registration Department,
South Tower, Room No.322,
3rd floor, Nandanam,
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SENTHILKUMAR RAMAMOORTHY,J

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