IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.2234 of 2022
and
W.M.P.No.2406 of 2022

M/s.Rane Brake Lining Limited,
Represented by Assistant General Manager
-Finance and Authorized Signatory,
Mr.G.Venkata Nagarjuna,
No.48, 49 & 50,
Sanyasikuppam Village,
Thirubuvanai P.O.,
Puducherry – 605 107. ... Petitioner

Vs.

The Commercial Tax Officer – IAC,
Office of the Commercial Tax Officer – IAC,
3rd Floor, Commercial Taxes Complex,
100 Ft. Road, Ellapillai Chavady,
Puducherry – 605 003. ... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned CST assessment order in TIN 34440010794 (72) for the assessment year 2017-2018 dated 10.12.2021 from the files of the respondent herein and quash the same in regard to the appropriation of the refundable amount into the Government Account and direct the Respondent herein to grant the refund of the excess tax amount as reflected in the impugned CST assessment order in TIN 34440010794(72) for the assessment year 2017-2018 dated 10.12.2021.

For Petitioner	: M/s.Aparna Nandakumar
For Respondent	: Mr.J.Kumaran Additional Government Pleader (Pondicherry)

ORDER

The writ petition is disposed of after hearing the learned counsel for the Petitioner and the learned Additional Government Pleader (Pondicherry) for the Respondent.

2. In this writ petition, the Petitioner has prayed for a Writ of Certiorarified Mandamus to quash the Impugned Order dated 10.12.2021 passed by the Respondent for the Assessment Year 2017-2018 under the provisions of Central Sales Tax Act, 1956.

3. The Petitioner is aggrieved by the Impugned Order in so far as it seeks to appropriate the amount that was due and payable to the Petitioner after the adjustment of the tax liability of the Petitioner for various assessment years as detailed below:-

ITC allowed during the year 2017-2018	:Rs.	179912.00
ITC brought from previous year 2008-2009	:Rs.	178582.00
ITC brought from previous year 2011-2012	:Rs.	93249.00
ITC brought from previous year 2012-2013	:Rs.	249436.00
ITC brought from previous year 2016-2017	:Rs.	71904.00
Total	**:Rs.**	**7,73,083.00**
VAT Output Tax Proposed	:Rs.	56.00
VAT Tax Paid	:Rs.	0.00
Balance Proposed	**:Rs.**	**0.00**
Excess ITC adjusted against CST Tax	**:Rs.**	**7,73,027.00**

4. By the Impugned Order, the aforesaid amount of Rs.7,73,027/- has been appropriated partly to wards the tax liability of the Petitioner for the period between April 2017 to June 2017 and partly towards the tax liability of the Petitioner under the provisions of Central Sales Tax Act, 1956.

5. The learned counsel for the Petitioner would submit that the balance of Rs.5,89,030/- ought to have been refunded back to the Petitioner.

6. During the course of hearing, the learned Additional Government Pleader (Pondicherry) for the Respondent submitted that the amount has been appropriated by the Government and the same was accepted by the authorized representative of the Petitioner.

7. Having considered the submissions made by the learned counsel for the Petitioner and the learned Additional Government Pleader (Pondicherry) for the Respondent, I am of the view that the challenge to the Impugned Order is unsustainable. However, the appropriation made in the Impugned Order is unsustainable. If the amounts are due and payable to the Petitioner after adjustment of the tax they have to be refunded back to the Petitioner.

8. There is no question of lapsing of the aforesaid amount so as to enable the Government to appropriate the amounts of refund that is/was due and payable to the Petitioner under the provisions of the PVAT Act, 2007 and CST Act, 1956.

9. Under these circumstances, Respondent is directed to refund a sum of Rs.5,89,030/- to the Petitioner. Since the amount is refundable, the Respondent is directed to refund the amount by crediting the amount in the Electronic Cash Register in terms of Section 142(8)(b) of the CGST Act.

10. The writ petition stands disposed of with the above observations and directions. No cost. Consequently, connected miscellaneous petition is closed.

13.08.2024

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

<u>C.SARAVANAN, J.</u>

rgm

To

The Commercial Tax Officer – IAC,
Office of the Commercial Tax Officer – IAC,
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