IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.8172 & 8178 of 2024 and
W.M.P.Nos.9121, 9123, 9127 & 9128 of 2024

In both WPs.

M/s.MMTC-PAMP India Private Limited,
Represented by its Authorised Signatory,
Mr.Omsiva A,
Shop No.616, 1st floor,
Sri Janani Complex,
Raja Street, Coimbatore-641 001. ...Petitioner

Vs.

1.Deputy Commissioner,
Office of the Deputy Commissioner of
Central GST and Central Excise,
Coimbatore III Division,
1441, Elgi Building,
Trichy Road,
Coimbatore 641 018.

2.Commissioner (Appeals),
Office of the Commissioner of GST and
Central Excise (Appeals),
6/7, A.T.D. Street, Race Course,
Coimbatore-641 018.

3.Branch Manager,

HDFC Bank Limited,
Delhi-Alwar Road, Opposite Bus Stand,
Sohna District-Gurgaon,
Sohna Haryana-122103. ... Respondents

Prayer in W.P.No.8172 of 2024: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the Impugned Notice in Form GST DRC-13 with DIN:20240359XM0000222A26 dated 05.03.2024 issued by the 1st respondent and to quash the same and to direct the 1st respondent to demark debit freeze of the petitioner's bank account maintained with the 3rd respondent.

Prayer in W.P.No.8178 of 2024: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the Impugned Notice in Form GST DRC-13 with DIN:20240359XM0000987213 dated 05.03.2024 issued by the 1st respondent and to quash the same and to direct the 1st respondent to demark debit freeze of the petitioner's bank account maintained with the 3rd respondent.

In both WPs.

For Petitioner : Ms.R.Charulatha
for M/s.Lakshmi Kumaran and Sridharan

For R1 & R2 : Mr.K.Mohanamurali,
Senior Standing Counsel

COMMON ORDER

By these two writ petitions, garnishee orders issued to the petitioner's bank are assailed. Assessment orders were issued against the petitioner in respect of both the assessment periods covered by these writ petitions in December 2022. These orders were carried in appeal before the appellate authority. By orders dated 29.09.2023 & 31.10.2023, respectively, the appeals were rejected. As a condition for filing the appeals, 10% of the disputed tax demand under each assessment order was remitted. On the ground that the garnishee orders impugned herein were issued in spite of the petitioner informing the tax authorities that appeals would be filed as soon as the Appellate Tribunal is constituted, the present writ petitions were filed.

2. Learned counsel for the petitioner submits that the total tax demand in respect of W.P.No.8172 of 2024 is a sum of Rs.1,34,22,484/-. By referring to the order in original dated 19.12.2022, learned counsel

points out that it is recorded therein that a sum of Rs.1,23,59,531/- is to be appropriated. By further submitting that such sum was appropriated, she also points out, by relying on Form GST DRC-03, that the additional liability of Rs.10,62,955/- was also discharged. As regards the tax demand in W.P.No.8178 of 2024, learned counsel submits that 30% of the tax demand of Rs.9,65,824/- is Rs.2,59,483/-. Out of this amount, she submits that a sum of Rs.86,494/- was remitted at the time of filing the appeal. An additional sum of Rs.1,00,880/- was remitted thereby aggregating to a sum of Rs.1,87,374/-. Therefore, she submits that there is a short fall of Rs.1,72,989/- to fulfil the entire pre-deposit requirement of 30% of the disputed tax demand.

3. Mr.K.Mohanamurali, learned senior standing counsel, accepts notice for respondents 1 & 2. He submits that it is open to the petitioner to approach this Court by way of writ petitions against the impugned appellate orders since the Appellate Tribunal is not functional as on date.

4. As regards amounts payable as per the order in original corresponding to W.P.No.8172 of 2024, the documents on record disclose that the entire tax liability was discharged and all that remains is interest

and penalty. As regards the order in original corresponding to W.P.No.8178 of 2024, an aggregate sum of Rs.1,87,374/- has been remitted towards the disputed tax demand leaving a balance of Rs.1,72,989/- to fulfil the 30% pre-deposit requirement under Section 112(8) of applicable GST enactments. If 30% of the disputed tax demand is remitted, the statute provides for a stay of any recovery or coercive action until the statutory appeal is disposed of.

5. Therefore, these writ petitions are disposed of with the following directions:

(i) The petitioner is directed to deposit a sum of Rs.1,72,989/- towards fulfilment of pre-deposit requirements in terms of Section 112(8) of applicable GST enactments. Such remittance shall be made within a maximum period of two (2) days from the date of receipt of a copy of this order.

(ii) Subject to receipt of a sum of Rs.1,72,989/-, the garnishee orders shall stand raised and the petitioner shall be permitted to operate its bank account.

(iii) The petitioner is directed to file statutory appeals before the appellate authority within a period of three months from the date when the President of the State Tribunal assumes office.

(iv) For the avoidance of doubt, it is clarified that the petitioner shall be entitled to the benefit of Section 112(9) of applicable GST statutes subject to fulfilment of the above conditions in respect of both the assessment orders forming the subject of these writ petitions. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

26.03.2024

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

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SENTHILKUMAR RAMAMOORTHY,J.

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