IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.11888 of 2024
and W.M.P.Nos.12980 & 12983 of 2024

M/s.S.P.P.Silks,
Represented by S.Karthikeyan,
Partner,
No.6, 6/1, 6/2, Easwaran Kovil Street,
Erode 638 001. ... Petitioner

-vs-

1.The Deputy Commissioner (State Tax),
161, Brough Road, Ground Floor,
Commercial Taxes Building,
Erode – 638 001.

2.The Assistant Commissioner (ST),
Mettur road assessment Circle,
Erode – 638 001.

3.M/s.Emerald Jewel Industry India Limited,
230, Thiruvenkatasamy road east,
R.S.Puram, Coimbatore – 641 002. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the files of the 1st respondent in GSTIN: 33ABRFS9234Q1Z7/2017-18 dated 20.03.2024 and quash the same as being invalid and illegal.

For Petitioner : Mr.V.Srikanth

For Respondents 1, 2 : Mr.V.Prasanth Kiran, GA (T)

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ORDER

Pursuant to an appellate order dated 22.10.2020, the first and second respondents issued impugned demand notice dated 20.03.2024. The present writ petition was filed in the said facts and circumstances. The petitioner asserts that he is entitled to challenge the appellate order before the appellate tribunal once such tribunal is functional. Therefore, only the recovery notice issued pursuant to the appellate order is challenged herein.

2. Learned counsel for the petitioner submits that the writ petition was directed against garnishee proceedings against the third respondent, whereas, while the writ petition was pending, the first and second respondents recovered the tax dues along with penalty from the bank account of the petitioner. Learned counsel contends that the first and second respondents should not have recovered the entire tax dues and penalty because the petitioner was entitled to a stay of recovery subject to payment of 20% of the disputed tax demand.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the first and second respondents. By pointing out that the appellate order was pronounced on 22.10.2020, learned Government

Advocate contends that the first and second respondents were entitled to effect recovery in accordance with the appellate order. On instructions, he points out that the impugned demand notice was withdrawn consequent to such recovery on 26.04.2024.

4. In view of the submissions of learned Government Advocate that the impugned demand notice was withdrawn, it is unnecessary to adjudicate this matter on merits. Accordingly, W.P.No.11888 of 2024 is disposed of subject to the observation that amounts recovered by the first and second respondents pursuant to the appellate order would be subject to the outcome of legal proceedings challenging such appellate order in future. No costs. Consequently, W.M.P.Nos.12980 and 12983 of 2024 are closed.

04.06.2024

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

To

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SENTHILKUMAR RAMAMOORTHY,J

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