IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16331 of 2024
&
WMP Nos.17877 & 17878 of 2024

Brakes India Private Limited,
Rep. By its Executive Director-Finance & CFO,
Shri G.Shankar,
MTH Road, Padi, Chennai 600 050. ... Petitioner

Versus

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

Prayer : A Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari to call for the records pertaining to the assessment order dt.02-Apr-24 passed by the respondent in GSTIN 33AAACB2533Q1ZP/2019-20 and the consequential rectification order along with DRC-08 dt. 02-Apr-24 bearing reference no.ZD330424038356J, and quashing the same.

For Petitioner : Mr.N.Murali

For Respondents : Mr.C.Harsha Raj
Addl. Govt. Pleader

ORDER

An order dated 02.04.2024 is the subject of challenge in this writ petition.

2. Pursuant to show cause notice dated 10.02.2023, an order dated 30.10.2023 was issued. Such order was challenged in W.P.No.36439 of 2023. By order dated 03.01.2024, the order impugned therein was set aside and the matter was remanded for reconsideration. The order impugned in this writ petition was issued pursuant to such reconsideration.

3. Learned counsel for the petitioner invited my attention to

the communication dated 24.01.2024 from the petitioner annexing six volumes of documents. He submits that all relevant documents such as the purchase orders placed on the supplier, M/s.Quality Traders, by the petitioner, the tax invoices, e-way bills, weighment slips at the supplier end, weighment slips at the tax payers end, bank statement reflecting payments made to the supplier, etc. were submitted to the respondent. In spite of all these documents being submitted, learned counsel contends that the documentary evidence was rejected on the ground that the same were fabricated by the supplier. Therefore, learned counsel submits that the impugned order is vitiated by non-consideration of material documents filed by the petitioner.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He refers to the discussion on the e-way bills in the impugned order and submits that specific reasons are set out in the impugned order for rejecting

the e-way bills. He further submits that the tax proposal was confirmed because the petitioner failed to discharge the burden under Section 155 of applicable GST enactments to establish that the petitioner was entitled to input tax credit.

5. The reply dated 24.01.2024 from the petitioner clearly indicates that six volumes of documents containing several material documents such as purchase orders, tax invoices, e-way bills, weighment slips, bank statements, etc. were submitted by the petitioner. Although the impugned order contains a discussion on the e-way bills, there is no discussion on the other documents submitted by the petitioner. No reason is contained in the impugned order for rejecting such documents or for concluding that such documents were fabricated. Therefore, the matter requires reconsideration. In order to protect revenue interest to an extent, it is necessary to put the petitioner on terms. On instructions, learned counsel for the petitioner agrees that the

petitioner would remit 5% of the disputed tax demand, as a condition for remand.

6. For reasons set out above, the impugned order dated 02.04.2024 is set aside on condition that the petitioner remits 5% of the disputed tax demand as agreed to within two weeks from the date of receipt of a copy of this order. The petitioner is also permitted to submit an additional reply within the said period. Upon receipt thereof and on being satisfied that 5% of the disputed tax demand was received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within three months from the date of receipt of the additional reply from the petitioner. For the avoidance of doubt, it is made clear that the 5% pre-deposit made by the petitioner pursuant to this order shall abide by the outcome of the remanded proceedings.

7. W.P.No.16331 of 2024 is disposed on the above terms. Consequently, WMP Nos.17877 & 17878 of 2024 are closed. No costs.

28.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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To

Assistant Commissioner (ST)
Ambattur Assessment Circle
Integrated Commercial Taxes and
Registration Department Buildings,
South Tower, Room No.322,

3rd Floor, Nandanam Chennai-600 035.

SENTHILKUMAR RAMAMOORTHY J.

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W.P.No.16331 of 2024
&
WMP Nos.17875 & 17876 of 2024

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