IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.08.2024
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

**W.P.No.17894 of 2024**
**and**
**W.M.P.Nos.19629 & 19630 of 2024**

M/s/ Chennai Auto Ancillary Industrial
Infrastructure Up gradation Company (in short, CAAIIUC)
Rep. by its Chairman Mr.V.Vijayakumaran
SIDCO ADMN Buildings,
II Main Road, Ambattur, Industrial Estate,
Thiruvallur, Tamil Nadu - 600 058. ...Petitioner

Vs.

1. The Assistant Commissioner
Ambattur Industrial Estate,
Kancheepuram, Tamil Nadu.

2 The Commercial Tax Officer
Ambattur Industrial Estate,
Zone X, Chennai South,
Tamil Nadu ...Respondents

**Prayer**

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the First Respondent in the impugned DRC-01 notice in GSTIN/ID 33AACCC7059A2Z3 dated 29.05.2024 and to quash the same as the same as been passed in violation of principles of natural justice without application of mind and to direct the Second Respondent to refund the amounts or re-credit arbitrarily debited from the Electronic Credit Ledger of the Petitioner on various dates without authority of law or to issue any other appropriate Writ or Order as this Hon'ble High Court may deem fit and proper.

For Petitioner : M/s.J.Vamini

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

**Order**

The challenge in this Writ Petition is to the show cause notice issued by the first respondent dated 29.05.2024 and to quash the same and consequently, to direct the second respondent to refund the amount or re-credit the amount that has been debited from the Electronic Credit Ledger of the Petitioner on various dates.

**2.** When the matter is taken up for hearing, at the threshold, Mr.C.Harsha Raj, the learned Additional Government Pleader (T) for the respondents submitted that the prayer sought for in the Writ Petition has become infructuous in view of the Drop Order passed on 25.07.2024, which is subsequent to the filing of the Writ Petition. The learned Additional Government Pleader would submit that, initially, a show cause notice under Section DRC-01 dated 28.06.2022 was issued to the petitioner, to which, a reply was filed in DRC-06 on 15.07.2022; that based on the said reply, Order-in-Original was passed on 01.03.2023, however, before passing the said Order-in-Original, another show cause notice for the same issue, was issued in DRC-01 on 11.01.2023, to which, a reply was filed by the petitioner on 25.11.2023, but the said proceedings dated 11.01.2023 was dropped on 19.03.2024, thereafter, onceagain a show cause notice was issued under DRC-01 dated 29.05.2024, for the same issue, in respect of which even, drop order was passed on 25.07.2024.

**2.1** Therefore, the learned Additional Government Pleader for respondents openly admittedly that due to system error, show cause notice were popped up thrice, however, only in respect of first show cause notice, assessment order was passed as early as on 01.03.2023, and in respect of two other show cause notices, the proposals contained thereunder were dropped, therefore, contended that if at all, the petitioner is aggrieved, the petitioner has to challenge the said Order-in-Original dated 01.03.2023, and the petitioner cannot challenge the third show cause notice dated 29.05.2024 by way of the present Writ Petition for the reason that subsequent to the filing of the Writ Petition on 24.06.2024, wherein, the challenge is to the third show cause notice dated 29.05.2024, proceedings were dropped on 25.07.2024, due to which, the present Writ Petition has become infructuous, as stated supra.

**3.** Per contra, M/s.J.Vamini learned counsel for the petitioner would submit that though the petitioner has been issued with three Show cause notices, by three different Officers, on three various dates, viz. 28.06.2022, 11.01.2023 and 29.05.2024, the proposals contained in all such three notices were one and the same, reflecting No.DRC-01 notice. Further, the learned counsel contended that though pursuant to the first show cause notice, assessment order was passed on 01.03.2023, subsequent to the same, since the petitioner has been issued with second show cause notice dated 11.01.2023 containing the same proposal and demand, the petitioner has filed a detailed reply, pursuant to which, drop order was passed on 19.03.2024; thereafter, the petitioner has been sending communications to the respondent-Department intimating about the dropping of the proposal contained in the second show cause notice and therefore, the petitioner was with a fervent hope that based on the drop order dated 19.03.2024, the respondent-

Department would not proceed against the petitioner, however, the petitioner, to their shock and surprise received a garnishee order dated 09.05.2024, declaring the petitioner as defaulter of tax, and all of a sudden, the petitioner has been slapped with the third show cause notice dated 29.05.2024.

**3.1** Therefore, the learned counsel contended that in the aforesaid circumstances, it is inscrutable to the petitioner as to which order, the petitioner has to file Appeal, inasmuch as, i) proceedings initiated vide first show cause notice resulted in an assessment order; ii) second show cause notice, resulted in drop order dated 19.03.2024, which was later, followed by a Garnishee Order, and that as and when, the petitioner has been issued third show cause notice dated 29.05.2024, the petitioner immediately, rushed before this Court challenging the show cause notice dated 29.05.2024 by way of the present Writ Petition. Therefore, she urged this Court to set aside last and final show cause notice (impugned herein), irrespective of the subsequent development took place after the filing of the Writ Petition, viz., the drop order was passed on 25.07.2024, thereby, dropping all further proceedings contained in the impugned Show cause notice, since, in all such three show cause notices, there is reference to DRC-01 Notice.

**4.** Intervening at this stage, learned Additional Government Pleader vehemently opposed to the said contention of the petitioner by contending that as long as the Order-in-Original dated 01.03.2023 passed based on the reply filed by the petitioner to the first Show cause notice dated 28.06.2022 remains unchallenged, the petitioner would be governed by the same and the second and third show cause notices are nothing but aftermath of pop-up errors, and the same shall be given a go-by, and therefore, insisted this Court either to dismiss the Writ Petition as having become infructuous or to grant time to file counter affidavit narrating the said facts and events in gist and kernel.

**5.** Heard M/s.J.Vamini, the learned counsel appearing for the petitioner and Mr.C.Harsha Raj, learned Additional Government Pleader (T) and perused the materials available on record.

**6.** Upon hearing the learned counsel for both sides and on perusal of records, it is seen that the petitioner has been issued with three Show cause notices dated i) 28.06.2022; ii) 11.01.2023 and iii) 29.05.2024 (impugned herein), however, considering the fact that only in respect of the first Show cause notice, Order-in-Original passed on 01.03.2023 by taking into consideration of the reply filed by the petitioner dated 15.07.2022, the said Order-in-Original will hold the field and the petitioner would be governed by the same, inasmuch as, the said order remains unchallenged by the petitioner so far. Insofar as the subsequent show cause notices are concerned, viz., second show cause notice and third show cause notice dated 11.01.2023 and 29.05.2024, as openly admitted by the learned Additional Government Pleader for respondents that the same are due to system pop-up errors and considering the fact that the proceedings initiated pursuant to second and third show cause notice dated 11.01.2023 and 29.05.2024 were dropped vide orders dated 19.03.2024 and 25.07.2024 respectively, the Writ Petition filed challenging the third show cause notice dated 29.05.2024 has become infructuous. Therefore, if at all, the petitioner is aggrieved, the petitioner has to challenge the said Assessment Order dated 01.03.2023. Hence, this Court is not inclined to accept the prayer of the petitioner, since, once the Assessment order is passed by an Officer, the Officer, who passed such Order becomes functus officio and no other Officer, can consider the issue.

**6.1** Thus, in the light of the above, the present Writ Petition challenging the third show cause notice dated 29.05.2024 is liable to be dismissed as having become infructuous, inasmuch as, subsequent to the filing of the Writ Petition i.e. on 24.06.2024, drop order was passed on 25.07.2024.

**7.** In the result, the Writ Petition is dismissed as infructuous. However, liberty is granted to the petitioner to challenge the the Order-in-Original dated 01.03.2023 in the manner known to law within a period of 30 days from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

**27.08.2024**

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Index : yes/no
Neutral Citation : yes/no

To
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Kancheepuram, Tamil Nadu.

2 The Commercial Tax Officer
Ambattur Industrial Estate,
Zone X, Chennai South,
Tamil Nadu

**Krishnan Ramasamy,J.**

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