IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.17417 & 17419 of 2024
and
W.M.P.Nos.19193, 19194, 19197 & 19199 of 2024

In both W.Ps. :
Tvl. Luxon Lighting Private Limited,
Rep. by its Director: Naresh Makwana ... Petitioner

Versus

The Deputy Commercial Tax Officer,
NSC Bose Road Assessment Circle, North-I: Chennai: Tamil Nadu,
No.32, Integrated Commercial Taxes,
Office Complex, Elephant Gate Bridge Road,
Chennai – 600 003. ... Respondent

Common Prayer : Writ Petitions filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari, to call for the records of the Respondent passed in GSTIN: 33AABCL1664M1ZG/2017-18 and consequential Order u/s 73 and Summary of the Order in Form GST DRC-07 having Reference No.ZD331223255813L and Reference No.ZD331223256291S respectively, all dated 29.12.2023 relating to FY 2017-18 and quash the same as illegal, contrary to the provisions of the Act and against the principles of natural justice and fair play.

In both W.Ps. :

For Petitioner : Ms. P. Aruna Chopda

For Respondents : Mr. V. Prashanth Kiran,
Government Advocate (Tax)

COMMON ORDER

By these two writ petitions, orders dated 29.12.2023 in respect of the assessment period 2017-18 are challenged.

2. The petitioner states that transitional credit was claimed to the extent of Rs.3,84,919/-. Subsequently, it was discovered that the petitioner was not entitled to credit to the extent of Rs.1,89,198/-. Consequently, the petitioner reversed Input Tax Credit to that extent on 17.07.2018. Since such reversal was done belatedly, the petitioner states that interest was paid for 286 days. Therefore, it is stated that the petitioner is entitled to transitional credit of Rs.1,95,721/-. Since two conflicting and contradictory orders were issued in respect of the same assessment period, the said orders are challenged in these two writ petitions.

3. Learned counsel for the petitioner referred to the order dated

02.12.2020 and pointed out that the said order recognized that the petitioner reversed ITC to the extent of Rs.1,89,198/- on 17.07.2018. Learned counsel also points out that interest was paid subsequently on 30.11.2020. In these circumstances, she points out that the order dated 29.12.2023, which is challenged in W.P.No.17419 of 2024, concludes that the ineligible ITC claimed is Rs.1,89,194/-, which was already reversed by the petitioner. As regards the impugned order in W.P.No.17417 of 2024, she submits that it was concluded therein that the value of ineligible credit is Rs.4,79,890/-.

4. Mr. V. Prashanth Kiran, learned Government Advocate, accepts notice for the respondent and submits that, as regards the credit of Rs.1,95,721/-, the petitioner is only entitled thereto to the extent that the petitioner submitted relevant C-Forms. Nonetheless, in view of the contradictions between these two orders on the same issue, he submits that the matter requires reconsideration.

5. On examining the order impugned in W.P.No.17419 of 2024, it is clear that the ineligible ITC claim as recorded therein is Rs.1,89,194/-.

By contrast, in respect of the same assessment period, the ineligible ITC claim is recorded as Rs.4,43,890/- in order dated 29.12.2023, which is impugned in W.P.No.17417 of 2024. Because of such inconsistency, neither order is sustainable.

6. The petitioner has placed on record order dated 02.12.2020 which records that ITC to the extent of Rs.1,89,198/- was reversed on 17.07.2018. The petitioner has also placed on record evidence that interest for belated reversal was credited on 30.11.2020.

7. In these circumstances, impugned orders dated 29.11.2023 are set aside and the matters are remanded for reconsideration. The petitioner is permitted to submit a reply along with all relevant documents within 15 days from the date of receipt of a copy of this order. Upon receipt thereof, 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 additional documents from the petitioner.

8. The Writ Petitions are disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

30.07.2024

Index : No
Speaking Order : Yes
Neutral Case Citation: No

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To

The Deputy Commercial Tax Officer,
NSC Bose Road Assessment Circle,
North-I: Chennai: Tamil Nadu,
No.32, Integrated Commercial Taxes,
Office Complex, Elephant Gate Bridge Road,
Chennai – 600 003.

SENTHILKUMAR RAMAMOORTHY,J.

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