IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.34052 of 2024
and
W.M.P.No.36869 & 36870 of 2024

Exide Industries Limited,
Represented by its Zonal Accounts Head- South-Corporate,
103-A, 4th Floor, Navins Presidium, A Block,
Nelson Manickam Road, Aminjikarai,
Chennai, Tamil Nadu- 600 029. ...Petitioner

Vs.

1. Deputy Commissioner (ST)-I
Large Taxpayers Unit,
South Tower, Nandanam,
Chennai, Tamil Nadu- 600 035.

2. Deputy Commissioner (ST)-II,
Large Taxpayers Unit,
South Tower, Nandanam,
Chennai, Tamil Nadu- 600 035. ...Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records in the proceedings of the 1st Respondent in Order Bearing No. GSTIN/33AAACE6641E1Z2/2019-20 dated 27.08.2024 passed by the 1st Respondent and to quash the same as an arbitrary and illegal.

For Petitioner : Mr.Joseph Prabakar

For Respondents : Mr.V.Prashanth Kiran
Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned order dated 27.08.2024 passed by the first respondent relating to the assessment year 2019-2020 on the ground that it is made in violation of principles of natural justice, manifest arbitrariness and also it suffers from non-application of mind to the material on record.

2. Mr.V.Prashanth Kiran, learned Government Advocate (Taxes), takes notice on behalf of the respondents. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The petitioner is a company incorporated under the provisions of the Companies Act, 1956 and it is engaged in the manufacturing and supply of batteries. The petitioner company is registered under the GST Act and the petitioner had submitted its return and also remitted appropriate tax for the relevant period 2019-2020. Whileso, the petitioner received a notice for conducting an Audit in Form GST ADT-01 dated 16.02.2023 under Section 65

of the Tamil Nadu Goods and Service Tax Act, 2017 (in short, TNGST Act, 2017) for the financial year 2019-2020. During the Audit, 21 defects were noticed, the petitioner responded to each of the 21 defects and all defects were dropped, except two viz., sale of lead scrap and reversal of Input Tax Credit on travel expenses.

3.1. The limited ground of challenge in sofar as the confirmation of the proposal on the sale of lead scrap and reversal of Input Tax Credit on travel expenses is that though the petitioner submitted a detailed objection along with the relevant documentary evidence, however, the proposal has been confirmed, without considering the objections filed by the petitioner.

4. Insofar as the other issue namely reversal of Input Tax Credit availed on travel expenses, the taxpayer/petitioner responded elaborately, however, the same was rejected on the premise that the Chartered Accountant's certificate has not been furnished. It is submitted by the learned counsel for the petitioner that had the petitioner been put on notice of the above requirement, they would have furnished the said document/certificate. In this regard, the learned counsel for the petitioner would refer to its objections dated 22.07.2024, wherein, after

setting out the objections, the petitioner had also requested that if they intend to proceed further, the petitioner may be granted an opportunity of personal hearing. It is submitted that, no personal hearing was granted thereafter. The petitioner was also not put on notice of the requirement of furnishing the Chartered Accountant's certificate, which, in the view of the Assessing Authority, would have a material bearing on the claim with respect to travel expenses made by the petitioner.

5. Per contra, Mr.V.Prashanth Kiran, learned Government Advocate appearing for the respondent would submit that the order impugned is an appealable order and therefore, this Writ Petition is not to be entertained as a matter of routine.

6. This Court is conscious of the fact that normally the Writ Petition under Article 226 of the Constitution of India not to be entertained when there is an effective alternative remedy available. However, the same is not an absolute bar, but it is only a self imposed restriction. There are well carved out exceptions to the rule of alternative remedy, some of such exception being where the order suffers from violation of principles of natural justice or suffers from error

apparent or lack of jurisdiction. This Court is also of the view considering the submissions made by the learned counsel on either side, there is a gross non-application of mind, inasmuch as even the objections made by the petitioner, wherein the petitioner had sought for personal hearing was not considered. The order impugned thus suffers from the vice of being manifest arbitrary and also violation of principles of natural justice.

7. In view thereof, this Court is inclined to set-aside the impugned order dated 27.08.2024, and the impugned order of assessment shall be treated as a show cause notice and the petitioner shall submit its objections within a period of two (2) weeks from the date of receipt of a copy of this order along with supporting documents/material. If any such objections are filed, the same shall be considered by the first respondent and orders shall be passed in accordance with law after affording a reasonable opportunity of hearing to the petitioner. This order may be treated as an addendum to the show cause notice. It was submitted that pursuant to the impugned order of assessment, recovery proceedings were also initiated. In view of the order passed herein, recovery proceedings, if any initiated, shall stand withdrawn.

9. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

14.11.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
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Large Taxpayers Unit,
South Tower, Nandanam,
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2. Deputy Commissioner (ST)-II,
Large Taxpayers Unit,
South Tower, Nandanam, Chennai, Tamil Nadu- 600 035.

MOHAMMED SHAFFIQ, J.
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<u>W.P.Nos.34052 of 2024</u>

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