IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2024

CORAM :

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.37210 of 2024
and W.M.P.Nos.40217 & 40218 of 2024

M/s.Gencor Pacific Auto Engineering Pvt. Ltd.,
Rep. by its Senior Accounts Manager
and Authorised Signatore,
Mr.A.Suresh,
A-25, SIPCOT Industrial Growth Centre,
Oragadam Village, Sriperumbudur TK,
Kancheepuram – 602 105. ... Petitioner

Vs.

1.The Superintendent of GST & Central Excise,
Irungattukottai Division,
C-48, TNHB Complex, II-Avenue,
Anna Nagar,
Chennai – 600 040.

2.The Assistant Commissioner of GST & Central Excise,
Irungattukottai Division,
C-48, TNHB Complex, II-Avenue,
Anna Nagar,
Chennai – 600 040. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari calling for impugned proceedings of the first respondent in Order-in-Original No.730/2024-GST-Supt dated 28.08.2024 and quash the same as passed contrary to the provisions of the Central Goods and Service Tax Act, 2017 read with the provisions of the Tamil Nadu Goods and Services Tax Act, 2017.

For Petitioner : Mr.Rajkumar.P

For Respondents : M/s.Revathi Manivannan, Senior Panel Standing Counsel

ORDER

This writ petition is filed to call for the impugned proceedings of the first respondent in Order-in-Original No.730/2024-GST-Supt dated 28.08.2024 and quash the same as passed contrary to the provisions of the Central Goods and Service Tax Act, 2017 read with the provisions of the Tamil Nadu Goods and Services Tax Act, 2017.

2. When the matter came up for hearing, learned counsel for the petitioner submitted that the matter is covered by the order of this Court in

W.P.No.25081 of 2024 etc., batch dated 17.10.2024. It is essential to extract the relevant portion of the said order which is in paragraph 11 and the same reads as follows:

> *"11.Accordingly, this Court passes the following orders.*
>
> *i) The orders impugned in all Writ Petitions are quashed insofar as it relates to the claim made by the petitioners for ITC which is barred by limitation in terms of Section 16(4) of the CGST Act, 2017 but, within the period prescribed in terms of Section 16(5) of the said Act.*
>
> *ii) Therefore, the respondent-Department is restrained from initiating any proceedings against the petitioners by virtue of the impugned orders based on the issue of limitation.*
>
> *iii) In view of the fact that the impugned orders are quashed, the respondent-Department is directed to take immediate steps towards de-freezure of the concerned petitioners bank accounts, which have been freezed in furtherance of the impugned orders, by sending intimation to the concerned bankers.*
>
> *iv) In the event, in the interregnum, ie., during the pendency of these writ petitions, if any orders are proposed to be passed towards recovery, same shall be dropped immediately upon production of the order copy by the petitioners, in whichever case, where, there is no interim order.*
>
> *v) It is also made clear that if at all, if there is any tax*

amounts were collected from the petitioners based on the impugned assessment orders from the cash ledgers/credit ledgers of the petitioners concerned, the same shall be refunded to them or by means of orders of this Court or even in the absence of any order from this Court, if any amount is deposited either in the cash ledgers/credit ledgers of the petitioners concerned, the same is permitted to be utilized/adjusted by the petitioners towards payment of future tax.

vi) Insofar as the apprehension expressed by the learned Additional Advocate General for the respondent-Department that in certain Writ Petition apart from the issue on limitation, challenges have also been made to the order related to issues such as discrepancies in availing the ITC/wrong availment of ITC/excess claim of ITC/Fake ITC claim, as the case may be, or such other issues, liberty is be granted to the respondent-Department to proceed against the assessees/petitioners in furtherance of the impugned orders in accordance with law."

3. Accordingly, this Writ Petition is also allowed in terms of aforesaid order. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

06.12.2024

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Index : Yes/No
Neutral Citation : Yes/No
Speaking order : Yes/No

To

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Irungattukottai Division,
C-48, TNHB Complex, II-Avenue,
Anna Nagar,
Chennai – 600 040.

2.The Assistant Commissioner of GST & Central Excise,
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C-48, TNHB Complex, II-Avenue,
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J.SATHYA NARAYANA PRASAD, J.

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