BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.03.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE B.PUGALENDHI**

W.P.(MD)No.6859 of 2024
and
W.M.P.(MD)Nos.6415 and 6417 of 2024

Siva Automative Trading Private Limite,
Rep.by its Director Mr.A.Veeramani,
No.2C, Gate Lock Road, New Ramnad Road,
Kamarajarsalai,
Madurai-625 009. ... Petitioner

/Vs./

The Assistant Commissioner (ST),
Kamarajar Salai Assessment Circle,
Madurai-625 020. ... Respondent

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings of the respondent in GSTIN: 33AASCS8990C1ZU/2017-18 dated 28.12.2023 and quash the same and further direct the respondent to re-do the assessment proceedings afresh.

For Petitioner : Mr.Raja.Karthikeyan
For Respondent : Mr.A.Baskaran
Additional Government Pleader

ORDER

Challenging the assessment notice for the 2017-18 dated 28.12.2023, the petitioner has filed this writ petition.

2.The petitioner is an assessee under the GST Act. The petitioner was issued with a show cause notice dated 29.09.2023 by disallowing the carry forward ITC through GST TRAN-I filed in online towards payment of entry tax. According to the petitioner, in terms of section 140(1) of the State Goods and Services Tax Act (in short 'Act') r/w 117(1) of the State Goods and Services Tax Rules [in short 'Rules'], a registered person is entitled to transition credit of value added tax (VAT) and entry tax carried forward in their returns. The petitioner for the notices issued by the respondent, has submitted reply on 06.09.2021 enclosing Tran-1 documents as under:-

> "*1.Carried Forward Credit in Rs.41,47,505/- Period 1/17 to 6/17-Number of Returns Filed under TNVAT-Invoice Copies & Details Enclosed.*
>
> *2.Form-1 Returns filed for the month of Jan-Jun-2017-Documents Enclosed.*
>
> *3.Entry Tax Returns filed for the month of Jan-Jun-2017-Documents Enclosed.*"

3.The said reply was also received by the Officer on 06.09.2021. However, without considering the materials placed by the petitioner, the present assessment order has been issued stating that the petitioner has not produced any documents as provided under Section 140 (1) of the Act.

4.The learned Additional Government Pleader appearing on behalf of the respondent submits that the documents enclosed by the petitioner in the typed set of papers were not placed before the Assessing Officer at the time of passing the impugned order. He further submits that if the said documents are furnished to the Assessing Officer, the same will be considered afresh and thereafter, necessary orders will be passed.

5.This Court had considered the rival contentions made on either side and perused the materials placed on record.

6.The petitioner claims that certain materials placed by the petitioner during the enquiry were not considered by the Assessing Officer. The respondent also conceded the same. Therefore, the order impugned in this writ petition is set aside and the matter is remanded back to the file of the respondent for fresh consideration. The petitioner shall appear for enquiry before the respondent along with the required materials on 04.04.2024. The respondent is directed to consider the same and pass suitable orders on its own merits and in accordance with law after providing due opportunity of hearing to the petitioner within a period of two weeks thereafter.

7.In the result, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

21.03.2024

Index : Yes / No
Internet : Yes / No
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To

The Assistant Commissioner (ST),
Kamarajar Salai Assessment Circle,
Madurai-625 020.

B.PUGALENDHI,J.

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W.P(MD)No.6859 of 2024

21.03.2024