BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.06.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) No.13222 of 2024
and
W.M.P.(MD) Nos.11707 and 11708 of 2024

M/S.TVS Sensing Solutions Pvt. Ltd.,
represented by Head (Finance),
R.Rajaram ... Petitioner

/vs./

1.State Tax Officer,
Inspection Cell-V,
Madurai.

2.State Tax Officer,
(Intelligence),
Madurai.

3.The Assistant Commissioner,
Madurai Division,
Madurai-II Range,
Melur Range. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records on the file of the 2nd respondent herein in GSTIN 33AAACT6768M1ZU/2018-19 dated 14.3.2024 along with Form GST DRC-07 and quash the same.

For Petitioner : Mr.D.Sakkaravarthi
For Respondents : Mr.J.K.Jayaselan
Government Advocate

ORDER

The petitioner has challenged the impugned order dated 14.03.2024 passed by the second respondent dated 14.03.2024 bearing Ref.No.GSTIN: 33AAACT6768M1ZU/2018-19.

2.The case of the petitioner is that the impugned order is un-sustainable, as the second respondent is the Officer, who investigated the case.

3.The learned counsel for the petitioner would submit that the issue is squarely covered by the decision of this Court rendered in ***W.P.(MD) No.25548 and 26389 of 2023 (M/s.Rasathe Garments Vs. The State Tax Officer (ST) Inspn., and others) dated 03.06.2024***.

4.The learned Government Advocate for the respondents also confirms the same.

5.Relevant portion of the order rendered in *W.P.(MD) No.25548 and 26389 of 2023 (M/s.Rasathe Garments Vs. The State Tax Officer (ST) Inspn., and others) dated 03.06.2024* reads as under:

> *"12. In my view, there is no embargo under the Scheme of the respective GST Enactments on the inspecting officer to issue Show Cause Notice. In fact, there is also no embargo on such officer to adjudicate the issue as long as such officer also satisfies the definition of a "proper officer" in Section 2(91) of the respective GST enactments which reads as under:-*
>
> > *"2.**In this Act, unless the context otherwise requires,—***
> >
> > *(91) "proper officer" in relation to any function to be performed under this Act, means the Commissioner or the officer of the State tax who is assigned that function by the Commissioner;"*
>
> *13. However, with a view to eliminate the scope of bias, the inspecting officer acting as a adjudicating officer has been discharged. The impugned circular has clarified the position in Paragraphs 3 and 4. Therefore, there are no merits in the challenge to the impugned Show Cause Notice in Form GST DRC-01 dated 25.09.2023 and the impugned Circular No.13/2022-TNGST dated 08.11.2022.*
>
> *14.Therefore, these Writ Petitions are disposed of by directing the second respondent State Tax Officer (ST) (Inspn.) to transmit the aforesaid Notice to the jurisdictional proper officer for adjudication in accordance with Paragraphs 4 and 5 of the impugned Circular No. 13/2022-TNGST dated 08.11.2022. This exercise shall be carried out by the second respondent State Tax Officer (ST) (Inspn.), within a period of 2 weeks from today.*
>
> *15.The proper officer shall pass appropriate orders on merits and in accordance with law within a period of 90 days thereafter. The*

petitioner shall file reply, if any, within a period of 30 days from today. Needless to state, the petitioner shall be heard before the order is passed.

16.In the result, these Writ Petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed. "

6.In view of the above, the impugned order stands quashed and the case is remitted back to the third respondent. The third respondent shall pass final orders on merits and in accordance with law as expeditiously as possible, preferably within a period of 3 months from the date of receipt of a copy of this order. It is made clear that the petitioner shall be heard before final orders are passed. It is open for the petitioner to furnish all the records and documents, which the petitioner seeks to rely to defend the demand proposed in the notices issued by the second respondent.

7.The Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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20.06.2024

To

1.State Tax Officer,
Inspection Cell-V,
Madurai.

2.State Tax Officer,
(Intelligence),
Madurai.

3.The Assistant Commissioner,
Madurai Division,
Madurai-II Range,
Melur Range.

C.SARAVANAN, J.

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W.P.(MD) No.13222 of 2024

20.06.2024