BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.06.2024**

CORAM:

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

W.P.(MD) Nos.13989 and 13990 of 2024
and
W.M.P.(MD) Nos.12253, 12254, 12262 and 12263 of 2024

Tvl.Subramaniam Motors Private Limited,
represented by its General Manager,
R.Pandiyarajan

... Petitioner in both W.Ps.,

/vs./

The Deputy State Tax Officer-I,
Thanjavur – I Circle,
Office of the State Goods and Service Tax Department,
Thanjavur.

... Respondent in W.P.(MD) No.13989 of 2024

The Deputy Commissioner (ST),
Thanjavur Zone,
Office of the Commercial Tax Department,
Thanjavur.

... Respondent in W.P.(MD) No.13990 of 2024

PRAYER in W.P.(MD) No.13989 of 2024: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned Order passed by the Respondent vide DRC-07 in GSITN 33AAQCS1648M1ZU/2018-19, dated 18.05.2022 and quash the same as arbitrary and consequently direct the Respondent to drop the proceedings against the petitioner.

PRAYER in W.P.(MD) No.13990 of 2024: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the respondent in GSTIN - 33AAQCS1648M1ZU/2024, along with Form GST DRC-13, dated 18.05.2024 and quash the same as arbitrary.

For Petitioner
in both W.Ps., : Mr.S.Muthuvenkatraman

For Respondent
in both W.Ps., : Mr.R.Suresh Kumar
Additional Government Pleader

COMMON ORDER

By this common order, both these writ petitions are being disposed of after considering the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

2.In these writ petitions, the petitioner has challenged the assessment order dated 18.05.2022 passed for the assessment year 2018-19 and the impugned order dated 18.05.2024 issued by the respondent in W.P.(MD) No.13990 of 2024 restraining the Ford India Private Limited from making any payment for a sum of Rs.6,58,181/-.

3.The learned counsel for the petitioner would submit that the petitioner was unaware of the impugned order passed by the respective respondents until receipt of communication dated 15.06.2024 by the Bank informing the petitioner that a sum of Rs.1,84,947/- has been recovered towards tax arrears in terms of the impugned order dated 18.05.2022, impugned in W.P.(MD) No.13989 of 2024.

4.The learned counsel for the petitioner would further submit that the petitioner was unaware of the hosting of the notices that preceded the impugned order. Consequently, the petitioner was also unaware of the hosting of the impugned order and that the petitioner came to know about the impugned order only after the receipt of the aforesaid notice dated 15.06.2024 from the Bank.

5.The learned counsel for the petitioner submits that the petitioner may have a fair chance to succeed and therefore, one opportunity be given to the petitioner.

6.Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents, this Court is inclined to grant partial relief to the petitioner by setting aside the impugned order considering the fact that a sum of Rs1,84,947/- has been recovered from the petitioner's account maintained with HDFC Bank, 150/2599, South Main Street, Kailaash Complex, Opp to Thangavel Chettiar, Kalyana Mandapam, Thanjavur 613 009 towards tax liability of Rs.6,58,181/- (Rs. 2,97,382/- towards SGST, Rs.2,97,382/- towards CGST and Rs.63,417/- towards IGST).

7.Under these circumstances, the impugned orders are quashed and the cases are remitted back to the respective respondent to pass a fresh order on merits and in accordance.

8.The impugned orders, which stand quashed, shall be treated as addendum to the show cause notice issued to the petitioner earlier. The petitioner shall file a reply to the aforesaid show cause notice within a period of 30 days from the date of receipt of a copy of this order and the respondents shall thereafter pass a final order on merits and in accordance with law as expeditiously as possible, preferably within a period of 3 months. The petitioner is directed to co-operate with the respondents, failing which the respondents are at liberty to pass orders based on the available materials.

9.The respondents are directed to withdraw the instructions attaching the bank account of the petitioner or its Directors. The respondents are also directed to recover the aforesaid amount ie., Rs.1,84,947/- from the petitioner's bank account. In case, the amount is not available in the account, the petitioner shall pay the aforesaid amount in cash through Electronic Cash Register within a period of 30 days from the date of receipt of a copy of this order.

10.The Writ Petitions stand allowed, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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28.06.2024

To

1.The Deputy State Tax Officer-I,
Thanjavur – I Circle,
Office of the State Goods and Service Tax Department,
Thanjavur.

2.The Deputy Commissioner (ST),
Thanjavur Zone,
Office of the Commercial Tax Department,
Thanjavur.

C.SARAVANAN, J.

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W.P.(MD) Nos.13989 and 13990 of 2024

28.06.2024