BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.04.2024**

CORAM:

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

W.P.(MD) No.13692 of 2024
and
W.M.P.(MD) Nos.12056 and 12058 of 2024

Aura Motors,
represented by its Partner,
Siva Ramanan K. ... Petitioner

/vs./

1.The Assistant Commissioner (ST) (R&A),
Intelligence Wing,
Thirunelveli,
Tamil Nadu.

2.The Appellate Deputy Commissioner (GST) Madurai,
camp at Tirunelveli.
(R2 has been suo motu impleaded vide order dated 26.06.2024)
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned order dated 29-12-2023 with the reference GSTIN 33AAUFA0402G1ZX/2017-18 in the files of the respondent, quash the same, direct the respondent to undertake de novo adjudication.

For Petitioner : Mr.N.Murali
For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

Heard Mr.N.Murali, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader for the respondent.

2.The writ petition has been filed against the impugned order dated 29.12.2023 under the provisions of the TNGST Act, 2017, for the assessment year 2017-18. The petitioner has approached this Court after the lapse of limitation for filing the appeal under Section 107 of the respective GST enactments.

3.Para 7 of the affidavit reads as under:

"I state that the following amounts have been paid/recovered from the Petitioner.

a) I state that the Petitioner has paid a sum of ?10,000 each towards CGST and SGST totalling to Rs.20,000 towards GSTR-9 late fees under Amnesty Scheme under the vide Form DRC-03 dated Act vide ARN AD330623054560D.

b) I state that the Petitioner has paid a sum of Rs 31,638/- in IGST, Rs.19/- in CGST, Rs.19/- in SGST totalling to Rs.31,676/- towards Output Tax of Rs.31,638/- on Commission and Payouts received and

RCM of Rs.38/- on receipt of GTA Service from unregistered person in Form DRC-03 dated 13.05 2024 vide ARN AD330524020329D and AD3305240203931.

c) I state that the Petitioner has paid interest of Rs.41,877/-, SGST Rs.22,721/- CESS on delayed payment tax for the period July 2017 in Form DRC-03 dated 15.06.2024 vide ARN AD330624023869U.

d) The GST Department has also recovered Rs.1,40,283.00 towards IGST Rs.7,390/- towards CGST and Rs.7,390/- towards SGST and Rs.6,51,934/- towards Cess totalling to Rs.8,06,997/- vide Reference No.DC3305240288343 on 20.05.2024, DC3305240291862 on 20.05.2024 and DC3306240035672 on 11.06.2024 from the petitioner's Electronic Cash Ledger. The department has also recovered Rs. 4,29,003/- towards CGST and Rs.6,85,251/- towards Cess totalling to Rs 11,14,254/- vide Reference No.D13305240566090 and DI3305240566120 on 28.05.2024 from the petitioner's Electronic Credit Ledger. The total recovery made from Electronic Cash Ledger and Electronic Credit Ledger comes to Rs. 19,21,251/- as on 12 06 2024."

4.The learned counsel for the petitioner submits that one opportunity may be given to the petitioner to workout its remedy before the Appellate forum.

5.The learned Additional Government Pleader appearing for the respondent would submit that the writ petition is devoid of merits and is liable to be dismissed in the light of the Hon'ble Supreme Court in ***Singh Enterprises Vs. Commissioner of C.Ex., Jamshedpur*** reported in ***2008 (221) E.L.T. 163 (S.C)***.

6.Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent, The Appellate Deputy Commissioner (GST) Madurai, camp at Tirunelveli is *suo motu* impleaded by this Court as second respondent in this writ petition and this Court is inclined to dispose of this writ petition at the time of admission by condoning the delay in filing the appeal before the second respondent.

7.The petitioner shall file an appeal before the second respondent within a period of 30 days from the date of receipt of a copy of this order. If such an appeal is filed within such time by the petitioner, the second respondent shall consider and dispose of the same on merits and in accordance with law as expeditiously as possible.

8.With the above directions, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

26.04.2024

Index : Yes / No
Internet : Yes / No
mm

To

The Assistant Commissioner (ST) (R&A),
Intelligence Wing,
Thirunelveli,
Tamil Nadu.

C.SARAVANAN, J.

mm

W.P.(MD) No.13692 of 2024

26.04.2024