BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) Nos.17966, 17967 & 17897 of 2024
and
W.M.P.(MD) Nos.15389, 15392, 15396, 15398, 15399, 15400 & 15402 of 2024

Sharp (Madurai) Security Management Services Private Limited,
Represented by its Managing Director,
Mr.M.Natarajan,
No.30, Flat No.10, First Floor,
Murugan Illam, 3rd Street,
Ashok Nagar Kochdai,
Madurai – 16. ... Petitioner in all W.Ps.

Vs.

The Assistant Commissioner (ST),
West Veli Street Circle,
CT Complex, Dr.Thangaraj Salai,
K.K.Nagar, Madurai – 20. ... Respondent in all W.Ps.

Common Prayer: Writ Petitions filed under Article 226 of Constitution of India for issuance of Writ of Certiorari to call for the records from the respondent in impugned orders in Detailed Proceedings in DRC 07 dated 02.03.2023 and the orders passed under Section 74 in Reference No.ZD330323018166U dated 03.03.2023 and consequential Summary of

Orders in Form GST DRC 07 in Reference No.ZD330323018166U dated 03.03.2023 passed for the F.Ys. 2020-2021, 2022-2023, 2021-2022 respectively and quash the same.

For Petitioner
in all W.Ps. : Mr.J.Narayanasamy
for Mr.B.Sivaraman

For Respondent
in all W.Ps. : Mr.J.K.Jayaselan
Government Advocate

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COMMON ORDER

By this common order, all these Writ Petitions are being disposed of.

2. In these Writ Petitions, the petitioner has challenged the following Assessment Orders:-

Table No.1

Sl. No.	W.P.(MD) No.	Assessment Year	Date of the impugned order	Amount
1	17966/2024	2020-2021	02.03.2023	Rs.1,56,04,500/-
2	17967/2024	2022-2023	02.03.2023	Rs.42,58,702/-
3	17897/2024	2021-2022	02.03.2023	Rs.1,35,35,789/-

Table No.1A

A.Y. 2020-2021 - [W.P.(MD) No.17966/2024]				
Description	***SGST (Rs.)***	***CGST (Rs.)***	***IGST (Rs.)***	***Total***
Tax	8,20,318	33,46,781	5167	41,72,266
Interest	15,99,229	16,62,772	1988	32,63,989
Penalty (100%) - as per Section 74(a)	40,79,649	40,79,649	8947	81,68,245
TOTAL	64,99,196	90,89,202	16,102	1,56,04,500

Table No.1B

A.Y. 2022-2023 - [W.P.(MD) No.17967/2024]				
Description	***SGST (Rs.)***	***CGST (Rs.)***	***IGST (Rs.)***	***Total***
Tax	10,07,006	10,07,006	0	20,14,012
Interest	1,15,339	1,15,339	0	2,30,678
Penalty (100%) - as per Section 74(a)	10,07,006	10,07,006	0	20,14,012
TOTAL	21,29,351	21,29,351	0	42,58,702

Table No.1C

A.Y. 2021-2022 - [W.P.(MD) No.17897/2024]				
Description	***SGST (Rs.)***	***CGST (Rs.)***	***IGST (Rs.)***	***Total***
Tax	30,31,043	30,31,043	5,670	60,67,756
Interest	6,99,301	6,99,301	1,675	14,00,277
Penalty (100%) - as per Section 74(a)	30,31,043	30,31,043	5,670	60,67,756
TOTAL	67,61,387	67,61,387	13,015	1,35,35,789

3. The impugned orders have been passed after the petitioner has been served with Show Cause Notices in DRC 01. Prior to the Notices in DRC 01, the petitioner was issued with Notices in DRC 01A which were replied by the petitioner. The petitioner appears to be engaged in providing security services. It appears that the petitioner was a defaulter of tax and had given an undertaking to pay the tax for the respective Assessment Years after being served with Notices in DRC 01A. After the petitioner had given the aforesaid representation, the petitioner had filed reply to the Notices issued for the respective Assessment Years in DRC 01. However, the Department has recovered the amounts for the Assessment Years 2020-2021 to 2022-2023 as detailed in the above Table.

4. As far as the Assessment Year 2021-2022 is concerned, a sum of Rs.17,92,711/- has been recovered from the petitioner as against the total tax of Rs.60,67,756/-. The demand towards penalty and interest has not been paid by the petitioner. The case of the petitioner is that the statements that were obtained from the petitioner were coercive in nature and therefore, the petitioner may be given an opportunity to explain the case.

5. It is submitted that no prejudice will be caused to the respondent as the entire tax lability, as far as the Assessment Years 2020-2021 and 2022-2023 are concerned, has been recovered in excess and partly adjusted towards the interest and penalty components. As far as the Assessment Year 2021-2022 is concerned, it is submitted that the petitioner had paid more than 25% of the tax due demanded in the impugned order.

6. This Court, under similar circumstances and after considering the situation, permitted the assessee to file a reply by quashing the impugned orders and treating them as an addendum to the show cause notices.

7. In this case, admittedly, the entire tax lability for the Assessment Years 2020-2021 and 2022-2023 has been recovered and more than 25% of the tax has been recovered for the Assessment Year 2021-2022. Therefore, I see no impediment to granting the petitioner one more opportunity to file a detailed reply.

8. Under similar circumstances, the impugned orders are quashed and cases are remitted back to the respondent to pass fresh orders on

merits and in accordance with law. The impugned orders which stand quashed shall be treated as Addendum to the respective Notices in DRC 01 which were not replied by the petitioner earlier. The petitioner shall file separate replies for each of the Assessment Years within a period of 8 weeks from today.

9. The respondent shall proceed to pass final orders on merits and in accordance with law within a period of 6 months from today. Since the matter is being remitted back, the order of attaching the petitioner's Bank Account shall stand lifted. The attachment of the properties shall continue for a period of 3 months from today and will subject to the final orders to be passed.

10. These Writ Petitions stand allowed with the above observations. No costs. Consequently connected Miscellaneous Petitions are closed.

30.07.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

JEN

Copy To:

The Assistant Commissioner (ST),
West Veli Street Circle,
CT Complex, Dr.Thangaraj Salai,
K.K.Nagar, Madurai – 20.

C.SARAVANAN, J.

JEN

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