BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.08.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD)No.19579 of 2024
and
W.M.P(MD)No.16601 of 2024

Unitac Energy Solutions (India) Private Limited,
Represented by its Chief Financial Officer,
Rejith Usharbudhan. ... Petitioner

Vs.

1.The Assistant Commissioner (ST) (FAC),
Palayamkottai, Commercial Taxes Buildings,
AR Line Road, Tirunelveli,
Tamil Nadu-627 002.

2.The Commissioner (Commercial Tax),
Office of the Commissioner (Commercial Tax),
4th Floor, Ezhilagam Annex Building,
Chepauk, Chennai-600 005.

3.ATC Telecom Infrastructure Private Limited,
GSTIN: 33AACCT1282E1ZQ,
3rd Floor, 45, Celestial Point,
Damodaran Street, Chennai,
Tamil Nadu-600 017.

4.Tvl. Indus Towers Limited,
GSTIN: 33AADCB0274F1Z7,
5th, 5, Ess Pee IT Park, Jawaharlal Nehru Road,
Ekkatuthangal, Chennai, Tamil Nadu. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the second respondent to dispose of application, dated 23.05.2024 pending before him as expeditously as possible and pass such further or other orders as this Court.

For Petitioner	:	M/s.S.P.Sri Harini for Mr.Anil D.Nair
For R-1 & R-2	:	Mr.R.Suresh Kumar Additional Government Pleader

ORDER

This writ petition is filed praying for a Mandamus to dispose of the application, dated 23.05.2024 filed by the petitioner under Section 80 of the GST Act.

2. The petitioner had earlier filed a writ petition in W.P(MD)No.14732 of 2024, wherein, this Court was pleased to pass the following order dated 03.07.2024:

> *"8. Having considered the submissions made by the learned counsel for the petitioner, I am inclined to dispose of this Writ Petition by directing the second respondent to dispose of the petitioner's application dated 23.05.2024, filed under*

Section 80 of the Act, within a period of 60 days from the date of receipt of a copy of this order, in the light of the recommendation made in the 53rd GST Council Meeting held on 22.06.2024 and subject to the Notification to be issued to that effect.

9. Considering the same, the respondents are directed to keep all recovery proceedings in abeyance for a period of 60 days from the date of receipt of a copy of this order. In case Notification is issued, suitable orders may be passed. In case no Notification is issued pursuant to recommendation made in the 53rd GST Council Meeting held on 22.06.2024, the petitioner's application dated 23.05.2024 may be suitably considered and disposed of."

3. It is submitted that 60 days period specified in the above order expires only on 03.09.2024. However, a garnishee notice dated 11.06.2024, was issued to M/s.Indus Towers Limited with regard to the arrears of tax to an extent of Rs.35,19,160/-. Consequent to which, M/s.Indus Towers Limited has withheld the money due to the petitioner. The petitioner was unaware of the above garnishee proceedings, when the earlier writ petition was disposed of vide order, dated 03.07.2024. It is submitted by the learned Counsel for the petitioner that already Rs.9,00,000/- has been recovered from the petitioner. It is also submitted that, if the garnishee proceedings continues, they will be put to great hardship. The learned Counsel for the petitioner would further submit that the garnishee proceedings is in violation of the directions of this Court.

4. The learned Additional Government Pleader for the first and second respondents would submit that the garnishee proceedings were issued even prior to the order passed in W.P.(MD).No.14732 of 2024. However, the learned Additional Government Pleader would submit that the Commissioner will endeavour to comply with the direction of this Court vide order, dated 03.07.2024, insofar as the respondents were directed to dispose of the application within a period of 60 days from the date of receipt of the copy of the said order.

5. In the circumstances, the petitioner is directed to deposit a further sum of Rs.2,00,000/- within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the respondents shall withdraw the garnishee proceedings forthwith and recovery proceedings shall be kept in abeyance until the disposal of the application under Section 80 of the Act. If the above condition is not complied with by the petitioner for any reason, it is open to the respondents to proceed to recover in accordance with law.

6. This writ petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

14.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To
1.The Assistant Commissioner (ST) (FAC),
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MOHAMMED SHAFFIQ, J.

BTR

W.P(MD)No.19579 of 2024

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