IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2025

Coram

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.9890 of 2024
and
W.M.P.Nos.10903, 10904 & 10906 of 2024

HMD Mobile India Private Limited,
Plot No.35, VGP Industrial Complex,
Sriperumbudur, Kanchipuram,
Tamil Nadu - 602 105,
Represented by its Authorised Signatory
Rahul Kumar ...Petitioner

Vs.

1.The State Tax Officer,
Kundrathur Assessment Circle, Sriperumbudur,
4/109, Bangalore Chennai Highway,
Varadarajapuram, Nazarathpet,
Chennai - 600 123.

2.The Commercial Tax Officer,
Audit-I, Office of the Joint Commissioner (ST),
Kanchipuram Division,
Kanchipuram. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records relating to the impugned order bearing Reference No.ZD3312232862551 and Order No.ZD331223286007N dated 30.12.2023 issued by the 1st respondent and quash the same to the extent it confirms the demand in respect of defect nos.3 (Credit Notes), 8 (Depreciation and amortization) and 11 (Trade Payables) proposed in the show cause notice bearing reference No.ZD330923214783C and dated 27.09.2023 issued by the 2nd respondent.

For Petitioner : M/s.Karthik Sundaram

For Respondents : Mr.V.Prashanth Kiran
Government Advocate (Tax)

ORDER

This Writ Petition has been filed by the petitioner to quash the impugned order dated 30.12.2023 passed by the 1st respondent.

2. The learned counsel for the petitioner would submit that initially the 2nd respondent has issued the show cause notice dated 27.09.2023 pertaining to the tax period from July 2017 to March 2018 for 12 defects. After receipt of the reply along with the supporting documents filed by the petitioner, they dropped the proposals in respect of 8 defects (i.e., 1, 2, 4, 6, 7, 9, 10 and 12). However, they confirmed the defect nos.3, 8 and 11 without considering the petitioner's reply.

3. The learned counsel for the petitioner would fairly submit that as far as the 5th defect for the interest is concerned, the petitioner will remit the interest amount as confirmed in defect no.5. Therefore, he requested to remit the matter for reconsideration.

4. The learned Government Advocate (Tax) for the respondents after taking instructions informed this Court that the petitioner's reply was not considered as far as the defect nos.3, 8 and 11 are concerned and therefore, he submitted that the matter may be remanded back to the authority for fresh consideration. Hence, he prayed for appropriate directions.

5. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, in the present case initially the show cause notice was issued for the 12 defects and out of the 12 defects, 8 defects were considered and after taking into consideration of the reply filed by the petitioner, they dropped the proposals as against the 8 defects. As far as the defect nos.3, 8 and 11 are concerned, the impugned order would show that the proposals were confirmed, as no reply was filed. As far as the defect no.5 is concerned, it pertains to the payment of interest and the petitioner is willing to pay the interest amount as confirmed in defect no.5.

6. On the other hand, a detailed reply was filed on the part of the petitioner and the same has not been considered. The learned Government Advocate (Tax) for the respondents also after getting instructions submitted that the reply was not considered and therefore, as far as the defect nos.3, 8 and 11 are concerned, this Court is inclined to set aside the impugned order and remand the matter back to the Authority for fresh consideration.

7. In such view of the matter, this Court is inclined to set aside the impugned order dated 30.12.2023 passed by the 1st respondent to the extent of confirming the proposals with regard to defect nos.3, 8 and 11 alone. Accordingly, this Court passes the following order:-

i) The impugned order passed by the 1st respondent dated 30.12.2023 is set aside to the extent of confirming the proposals with regard to defect nos.3, 8 and 11 alone.

ii) Consequently, the matter is remanded to the 1st respondent for fresh consideration.

iii) The petitioner is permitted to pay the interest as confirmed in the proposal defect no.5, within a period of two weeks from the date of receipt of a copy of this order.

iv) Upon production of proof with regard to the payment of interest as confirmed in the proposal defect no.5, the 1st respondent is directed to issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law as far as defect nos.3, 8 and 11 are concerned.

8. With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

06.08.2025

Speaking order / Non-Speaking order
Index : Yes / No
Neutral Citation : Yes / No
sri

To

1.The State Tax Officer,
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4/109, Bangalore Chennai Highway,
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2.The Commercial Tax Officer,
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KRISHNAN RAMASAMY, J.,

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