IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: **13.06.2019**

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.15978 of 2019
&
W.M.P.Nos.15752 and 15753 of 2019

M/s.DAEJUNG MOPARTS PVT. LTD.,
Rep. By its Director Sri Dokyoo An
Plot No.6, Sengundram Industrial Estate
Meirosapuram
Singa Perumal Koil
Kancheepuram District .. Petitioner

Vs.

1. The Assistant Commissioner of CGST & Central Excise
Maraimalai Nagar Division
Plot No.40, Ranga Colony, Rajakilpakkam
Chennai – 600 073

2. The Commissioner of GST & Central Excise
Chennai Outer Commissionerate
Newry Towers, 12th Main Road, Anna Nagar
Chennai – 600 040 .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records relating to the impugned proceedings issued by the 1st respondent in Form GST DRC-13-Notice to a Thrid person under Sec. 79(1)(c) of the CGST Act addressed to Indian Overseas Bank, Maraimalai Nagar Branch attaching the Bank account (Cash Credit A/c.No.76102000001034 of the petitioner and to quash the same as issued without adhering to the mandatory requirements specified under the GST act, arbitrary and illegal.

For Petitioner : Mr.M.A.Mudi Mannan

For Respondents : Mr.V.Sundareswaran
Senior Panel Counsel for R1 and R2

ORDER

Mr.M.A. Mudi Mannan, learned counsel on record for writ petitioner and Mr.V.Sundareswaran, learned senior panel counsel (GST), who had accepted notice on behalf of both the respondents (official respondents), are before this Court.

2. With the consent of learned counsel on both sides, the main writ petition itself is taken up, heard out and disposed of.

3.Today, in a similar matter with identical set of facts (obviously nature of business and numerical values being different), this Court passed an order directing the respondents to consider the writ petitioner's objections and request on the issue as to whether interest is payable on ITC component also.

4.As there is no disputation before this Court that the issue is identical, this order has to be read in conjunction with and in continuation of core order made today in W.P.No.15624 of 2019 albeit with changes in numerical values and dates. The operative portion will vary owing to available bank balance in writ petitioner's bank account and therefore operative portion is set out infra.

5.Following the order made in W.P.No.15624 of 2019, this writ petition is disposed of with the following directions:

a) Writ petitioner has produced a computer generated statement for his bank account i.e, Account No.076102000001034, Customer ID 656931 with Indian Overseas Bank, Maraimalainagar (0761), 34, Nandanar Street, Maraimalainagar, Chengalpattu, Tamil Nadu - 603 209, E-mail Id: iob0761@iob.in, IFSC Code: IOBA0000761 to show that the balance available in the writ petitioner's account as of 12.06.2019 is Rs.33,77,394/- (Rupees Thirty Three Lakhs Seventy Seven Thousand Three Hundred and Ninety Four only).

b) As the bank has not been arrayed as respondent, Registry shall communicate this order to the aforesaid bank at the aforesaid address and from and out of the aforesaid balance of little over Rs.33,00,000/-, the said bank shall pay out an admitted sum of Rs.9,15,121/- (Rupees Nine Lakhs Fifteen Thousand One Hundred and Twenty One only) to the Assistant Commissioner of GST and Central Excise, Maraimalainagar Division (first respondent herein) forthwith.

c) In all other aspects, communication dated 21.05.2019 bearing reference C.No.IV/16/30/2019-Tech-III from the first respondent to the aforesaid bank will stand set aside. This would mean that the writ petitioner can operate aforesaid bank account with the exception of aforementioned admitted sum of Rs.9,15,121/-, which shall be paid by the Bank to the first respondent.

d) On payment of aforesaid amount on or before 20.06.2019, the impugned communication dated 21.05.2019 bearing reference C.No.IV/16/30/2019-Tech-III from the second respondent to the Indian Overseas Bank will stand set aside.

e) On payment of aforesaid amount of Rs.9,15,121/- on or before 20.06.2019 by the writ petitioner's banker, as mentioned supra, impugned communication from the second respondent to Indian Overseas Bank *inter-alia* under Section 79 of CGST Act will stand set aside and the second respondent shall consider all the points raised in writ petitioner's reply dated 10.05.2019, more particularly the annexed working sheet, pass an order in a manner known to law and communicate the same to the writ petitioner under due acknowledgement within one week therefrom.

f) If the decision taken by the second respondent is in favour of the writ petitioner, it is the end of the matter. If that be not so, as mentioned supra, writ petitioner shall avail alternate remedy of preferring a statutory appeal to the appellate Authority under Section 107 of CGST Act.

This writ is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

13.06.2019

Speaking order: yes/no
Index:yes/No
gpa

Note to office:

1. Issue order copy on 17.06.2019

2. Registry is directed to communicate this order to Indian Over Bank, 34, Nandanar Street, Maraimalainagar, Chengalpattu, Tamil Nadu - 603 209 forthwith.

To

1. The Assistant Commissioner of CGST & Central Excise
Maraimalai Nagar Division
Plot No.40, Ranga Colony, Rajakilpakkam
Chennai – 600 073

2.The Commissioner of GST & Central Excise
Chennai Outer Commissionerate
Newry Towers, 12th Main Road, Anna Nagar
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M.SUNDAR, J.,

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