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W.P.No.9793 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.9793 of 2024

and

W.M.P.No.10821 of 2024

M/s.Tamilnadu State Transport Corporation (Villupuram)
Limited, Represented by its Managing Director
Mr.S.S.Rajhmohan
having its Registered and Administrative
Office:3/137, Trichy Road,
Salamedu,
Villupuram-605 602.

....

Petitioner

Vs

The Additional Commissioner of Central Tax
Office of the Commissioner of GST & Central Excise
Chennai-Outer
Newry Towers:No.2054
II Avenue, Anna Nagar, Chennai-600 040.

....

Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the impugned proceedings of the respondent in Order-In-Original No.98/2023-GST (ADC) dated 30.12.2023 passed in DIN-20231259XL000061186E and quash the impugned order in so far as the levy of interest and penalties as passed contrary to the provisions of the CGST Act 2017 and TNGST Act, 2017 and also contrary to the principles of



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natural justice.

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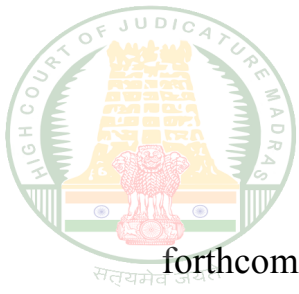
For Petitioner : Mr.P.Rajkumar

For Respondents : Mr.S.Gurumoorthy
Senior Panel Counsel

ORDER

This Writ Petition has been filed challenging the impugned proceedings of the respondent in Order-In-Original No.98/2023-GST (ADC) dated 30.12.2023 passed in DIN-20231259XL000061186E and quash the impugned order in so far as the levy of interest and penalties as passed contrary to the provisions of the CGST Act 2017 and TNGST Act, 2017 and also contrary to the principles of natural justice.

2. The learned counsel for the petitioner would submit that even though GST was implemented on July 1st 2017, there were many technical issues during the initial months of implementation of GST, due to which the petitioner could not upload their GSTR 3B returns for the period from July 2017 to March 2018 initially as the portal was not supporting the Digital signature of the petitioner's Managing Director. This was brought to the knowledge of the Commercial Tax Officer Villupuram by the petitioner every month through their letters and through a ticket raised in the GST portal. But there was no solutions



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forthcoming from the department. Despite the technical issues, the petitioner discharged their output tax without adjusting any input tax credit by depositing their exact tax liability in their Electronic Cash ledger.

3. Further, he would submit that the petitioner experienced the same technical issues even from April 2018 till July 2019 as their Managing Director got retired and the new incumbent's digital signature could not be supported by the GST portal. During this period also, even in the absence of uploading their GSTR 3B monthly returns, the petitioner discharged their exact tax liability by depositing in the Electronic Cash ledger. However, it is the case of the respondent that the petitioner had only deposited the money into the electronic cash ledger and they have not filed their GSTR 3B returns in time and debited cash ledger for payment of tax which they have done only in the month of August 2019 and so for the delay in debiting the tax which was available in the petitioner's electronic cash ledger towards the actual tax liability for the period from July 2017 till 2019 by filing GSTR 3B returns, the petitioner is liable for interest under Section 80 read with Section 73(1) of the CGST Act, 2017/TNGST Act, 2017. Alleging the same, the respondent issued show cause notice dated 25.06.2021 to the petitioner, for which the petitioner in its objections dated 16.07.2021, 13.07.2022 and 20.07.2023 submitted that the



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delay in filing GSTR 3B returns fro the period from July 2017 to July 2019 were due to technical glitches and also due to the retirement of their Managing Director and the consequential expiry of digital signature to approve the filing of their statutory returns and even in this delicate situations, the exact/entire taxes relating to their outward supply were paid/remitted then and there by remitting in their electronic cash ledger and requested the respondent to drop the proposal to levy interest under Section 50 of the CGST Act, 2017/TNGST Act, 2017. But the respondent rejected the objections filed by the petitioner and passed the impugned order dated 30.12.2023, confirming the demand made in the show cause notice. Challenging which, the present writ petition has been filed.

4. The learned counsel for the petitioner relied upon the decision of this Court in the case of *M/s.Eicher Motors Limited Vs.The Superintendent of GST and Central Excise Range-II*, wherein this Court has held that the interest liability stops accruing from the date on which the amount due is deposited in the tax payer's electronic cash ledger and submitted that the issue raised in this writ petition is squarely covered by the aforesaid decision of this Court.

5. Per contra, the learned Senior Standing Counsel appearing for the



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respondent would submit that the entire tax amount has already been remitted by the petitioner and the same was also recorded in the impugned order. But the interest was called for due to the reason that there was a delay in filing the returns.

6. Heard both sides. Perused the records.

7. The issue with regard to payment of interest is considered by this Court in the case of *M/s.Eicher Motors Limited Vs.The Superintendent of GST and Central Excise Range-II*, wherein this Court has held that the interest liability stops accruing from the date on which the amount due is deposited in the tax payer's electronic cash ledger.

8. In this context, it would be apposite to extract Rule 88 B(1) of the C.G. & S.T.Rules, 2017 and the same is extracted hereunder:

"Provided that where any amount has been



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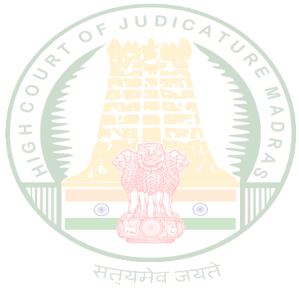
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credited in the Electronic Cash Ledger as per provisions of sub-section (1) of section 49 on or before due date of filing the said return, but is debited from the said ledger for the payment of tax while filing the said return after the due date, the said amount shall not be taken into consideration while calculating such interest if the said amount is lying in the said ledger from the due date till the date of its debit at the time of filing return."

9. The aforesaid provision is clarificatory in nature and therefore the question of retrospective or prospective effect will not come into picture and therefore the question of payment of interest will not arise.

10. As far as other payments or penalty is concerned, if there is any non payment on or before the due date, it is left open to the respondent to take appropriate action.

11. In the result, the impugned order dated 30.12.2023 is quashed to the extent of levying of interest alone.



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12. Accordingly, this writ petition is disposed of. No costs.

Consequently, connected miscellaneous petitions is closed.

14.03.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To

The Additional Commissioner of
Central Tax,
Office of the Commissioner of GST &
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Chennai-Outer
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Krishnan Ramasamy,J.,

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