



W.P.(MD) No.17211 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.17211 of 2024

and

W.M.P.(MD) Nos.14833 & 14834 of 2024

M/s.Jindal Pipes Limited,

Represented by its Authorised Signatory Anand Garg.

... Petitioner

Vs.

The Deputy State Tax Officer (Int),
Roving Squad-I, Madurai.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 05.09.2023 issued in O.R.No.176/2023-24, Madurai RS-I, by the respondent and quash the same and direct the respondent to refund the penalty amount of Rs.8,74,036/-.

For petitioner : Mr.Derrick Sam

For respondent : Mr.R.Suresh Kumar

Additional Government Pleader

ORDER

Heard learned counsel for the petitioner and learned Additional



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Government Pleader for the respondent.

2. The petitioner is before this Court challenging the impugned order dated 05.09.2023 bearing reference in O.R.No.176/2023-24/Madurai RS-1, whereby, the penalty of Rs.8,74,036/- was imposed on the consignment carried in conveyance bearing No.KA01AM5532. The supplier from Bellari District has supplied the consignment of steel pipes to Tuticorin, namely H.V.Cargo Logistics. The goods that were carried in the aforesaid conveyance which accompanied Tax Invoices as also E-Way Bill. However, there was a discrepancy between the PIN code of the petitioner in the Tax Invoices and in the E-Way Bill. The address in the Tax Invoices and E-Way Bill is as detailed below:

Address in Tax Invoice	Address in E-Way Bill
Near Sultanpur Village, Sandur Taluk, District Bellary – 583 115, Karnataka, India. Phone:9243600601, Mobile:9448286181	SYN 38 Musenayakanahalli Yarabanhalli Village, Sultanpur, Tornagallu, Ballari, Karnataka-583123.

3. Pursuant to the detention of the vehicle, since the consignment was urgently required, the penalty, that was imposed, was also paid on 06.09.2023 by

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the petitioner, which was acknowledged by the respondent in Form GST DRC 03 dated 07.09.2023. The petitioner has now come forward with this Writ Petition on the strength of the Circular No.64/38/2018-GST dated 14.09.2018 of the Central Board of Indirect Taxes and Customs, GST Policy Wing, bearing reference in CBEC/20/16/03/2017-GST.

4. In this connection, a reference is made to para 5 of the said Circular dated 14.09.2018, which reads as under:

“5. Further, in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated, inter alia, in the following situations:

- a) Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;*
- b) Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;*
- c) Error in the address of the consignee to the extent that the locality and other details of the consignee are correct;*
- d) Error in one or two digits of the document number mentioned in the e-way bill;*



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- e) Error in 4 or 6 digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct;*
f) Error in one or two digits/characters of the vehicle number.”

5. It is submitted that the imposition of penalty under Section 129(5) is unjustified as it is prior to the aforesaid Circular No.64/38/2018-GST of the Central Board of Indirect Taxes and Customs referred supra.

6. That apart, the learned counsel for the petitioner submits that the address given in the E-Way Bill and the VAT registration obtained under Rule 9(1) of the Karnataka VAT Rules, 2005 are one and the same.

7. It is submitted that there is a minor discrepancy in so far as the PIN code, which mistake has been carried forward by the petitioner in the E-Way Bill as the GST Registration bears the address at PIN code 583123.

8. It is submitted that in view of the above Circular, at best, the penalty to the tune of Rs.500/- each under Section 125 of the CGST and SGST had imposed



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9. The Writ Petition is opposed by the learned Additional Government Pleader for the respondent on the ground that the impugned order is dated 05.09.2023 and the present Writ Petition is filed long after it was passed.

10. That apart, it is submitted that the petitioner had voluntarily paid the amount on 06.09.2023, which has been duly acknowledged in Form GST DRC 03 on 07.09.2023. It is further submitted that this Writ Petition is liable to be dismissed.

11. Specifically, the learned Additional Government Pleader for the respondent has drawn attention to Section 129(5) of the respective GST enactments, as per which, the payment of the amount referred to in sub-section (1), all proceedings in respect of the notice specified in sub-section (3) to Section 129 shall be deemed to have been concluded.

12. It is, therefore, submitted that in view of the payment of the amount and



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in view of Section 129(5) of the respective GST enactments, it is to be deemed that the issue has been concluded against the petitioner and therefore, this Writ Petition is liable to be dismissed.

13. That apart, it is submitted that at best, the petitioner can be given a liberty in filing statutory appeal, if any.

14. Finally, the learned Additional Government Pleader for the respondent has drawn attention to the decision of the Hon'ble Division Bench of the High Court of Allahabad in ***Libra International Limited vs. Assistant Commissioner, Commercial Tax and another*** reported in ***2020 SCC Online All 1523: (2021) 145 ALR (SUM 5) 3: (2021) 51 GSTL 284: ILR (2021) 1 All 702.***

15. Specifically, it is submitted that in the said decision, the Hon'ble Division Bench of the High Court of Allahabad has held as follows:

“15. The challenge sought to be raised to the order dated 15.2.2018 passed under Section 129(3) of the Act, 2017, having been made at a belated stage, we are of the view that the relief claimed in this regard in terms of relief clause (I), would be barred by laches; moreso, in the light of the fact that the petitioner claims to have deposited the entire amount of tax and penalty determined under the



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said order, and by virtue of the deeming provision under sub-section (5) all proceedings in respect of the notice specified under sub-section (3) shall be deemed to be concluded.”

16. Having considered the submissions made by the learned counsel for the petitioner and learned Additional Government Pleader for the respondent, having considered the documents filed by the petitioner and having considered the Circular Circular No.64/38/2018-GST dated 14.09.2018 issued by the Central Board of Indirect Taxes and Customs, the content, which has been extracted above, the Court is of the view that the petitioner cannot be mulcted with unjust penalty due to a minor discrepancy in the PIN code in the GST Registration and the Tax Invoices is to be construed as a minor violation of the provisions of respective GST enactments.

17. It is noticed that the difference in the address given in the E-Way Bill and the address in the Tax Invoices are only on account of the difference in the Head Office and the actual place from which the delivery was made. The petitioner had earlier obtained registration under VAT Act, for the place from where the despatch was made. The Tax Invoices, that has been raised by the petitioner, is from the same address at earlier obtained registration from VAT



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18. It appears that the petitioner has a separate office from where the Tax Invoices are raised, whereas the despatches are made from the godown where the pipes manufactured by the petitioner's factory are stored.

19. In my view, the imposition of penalty for technical venial breach of the provisions or the minor discrepancy in the variance in the address in the Tax Invoices and the E-Way Bill would not justify the penalty under Section 129(5) of the respective GST enactments. Although the petitioner has come long after the impugned order was passed, the Court is of the view that the philosophy under the respective GST enactments is not to levy unjust tax and burden on assessee, who is otherwise regular in paying tax and complies with the law.

20. Under these circumstances, the impugned order passed by the respondent is quashed. In view of this order, the respondent is directed to either refund the amount paid by the petitioner or allow the petitioner to take credit in their Electronic Cash Register or Electronic Cash for adjustment towards future tax liability of the petitioner.



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WEB COPY This Writ Petition is disposed of with above directions. No costs.

Consequently, connected miscellaneous petitions are closed.

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Internet : Yes / No

apd

To

The Deputy State Tax Officer (Int),
Roving Squad-I, Madurai.



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C.SARAVANAN, J.

apd

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