



W.P.(MD) No.11734 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.11734 of 2024

and

W.M.P.(MD) Nos.10476 and 10477 of 2024

Tvl.Tirupathi Packaging,
represented by its Proprietor,
R.Venkatesh Kannan

... Petitioner

/vs./

The Deputy State Tax Officer-2,
Madurai Rural East Assessment Circle,
Madurai.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in GSTIN -33AEJPV3287P2ZL for the Tax period 2017-18 (July 2017 to March 2018) dated 26.12.2023, quash the same and further direct the respondent to pass order afresh after affording an opportunity to the petitioner to file their objections with supporting documents.

For Petitioner : Mr.A.Chandrasekaran

For Respondent : Mr.R.Suresh Kumar

Additional Government Pleader



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ORDER

Heard Mr.A.Chandrasekaran, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader for the respondent.

2.The petitioner has filed this Writ Petition on 04.06.2024 after the respondent has initiated recovery proceedings pursuant to the impugned order dated 26.12.2023 demanding a sum of Rs.3,56,158/- (Rs.1,78,079/- towards CGST and Rs.1,78,079/- towards SGST) and interest of Rs.1,94,022/- (Rs.97,011/- towards CGST and Rs.97,011/- towards SGST)

3.The case of the petitioner is that the petitioner has wrongly filed return in GSTR-3B by including the input tax credit as RCM claimed when indeed according to the petitioner it was only a input tax credit and should have been availed under Table 4A(5).

4.The learned counsel for the petitioner submits that the petitioner is a small Enterprise and was unaware of the notices that preceded the impugned notice and the personal hearing notice that were issued to the petitioner. He

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submits that if one opportunity is given to the petitioner, the petitioner will explain the case, as the dispute has arisen on account of wrong entry made by the petitioner in Form GSTR-3B for the initial month after the implementation of GST on 01.07.2017.

5. On the other hand, the learned Additional Government Pleader appearing for the respondent would submit that the petitioner has not been cooperated, inasmuch as the petitioner has neither replied to the show cause notice nor to any of the personal hearing notices issued to the petitioner. That apart, it is submitted that the impugned order, which was earlier despatched to the petitioner, was returned as 'Door locked' and thus, the petitioner should not be shown any mercy.

6. Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent, this Court is of the view that the petitioner can be given a fresh opportunity to reply to the show cause notice in DRC 01 bearing Ref.No.ZD330823176794Y dated 30.08.2023 subject to the petitioner depositing 10% of the disputed tax amount confirmed in the impugned order.



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7.The petitioner shall also file a reply to the show cause notice by treating the impugned order, which stands quashed today by this Court, as addendum to the show cause notice in DRC 01 bearing Ref.No.ZD330823176794Y dated 30.08.2023.

8.Subject to the above compliance, the respondent is directed to pass a speaking order on merits and in accordance with law within a period of 3 months from the date of receipt of a copy of this order. It is needless to state that the petitioner shall also be heard.

9.With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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The Deputy State Tax Officer-2,
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C.SARAVANAN, J.

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