

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No.9206 of 2020
and
WMP. Nos.11230 & 11231 of 2020

M/s.Rainbow Travels,
Represented by its Partner,
Mr.A.N.Karthikeyan,
No.500, Bharathi Street,
Puducherry 605 001.

...Petitioner

Vs

The Commercial Tax Officer (SD),
100 Feet Road, Ellapillaichavady,
Pondicherry - 605 005.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the records pertaining to the impugned demand notice dated 06.02.2020 issued by the Respondent in File No.34AARFR3076N1ZI/CTO-SD/2019-20 and quash the same.

For Petitioner : Mr.G.Derrick Sam
For Respondents : Mr.J.Kumaran,
Additional Government Pleader
(Puducherry)

O R D E R

Heard Mr.G.Derrick Sam, learned counsel for the petitioner and Mr.J.Kumaran, learned Additional Government Pleader (Puducherry) for the respondent.

2. As per counter dated 30.11.2020, the respondent has withdrawn the impugned notice dated 06.02.2020 and paragraph 14 reads as follows:

'14. I submit that, the Petitioner who is engaged in "Rental service of transport vehicles (with operators)" by paying tax at the rate of 5% is not at all entitled to avail ITC even if the returns are filed within the time limit, since the Notification No.11/2017-Puducherry GST (Rate) dt. 29.06.2017 had already clarified that the person who opted to pay tax @ 5% cannot avail ITC and hence the contention of the Petitioner with

respect to availment of ITC with relevance to limitation specified in the GST law is not applicable to the present incidence of levy. Therefore, the Respondent has decided to issue fresh notice, however, due to the pendency of the present Writ Petition, the Respondent is not in a position to issue the proposed notice. Hence, it is clear that the Petitioner had filed the Writ Petition with ulterior motive and total misconception of law, and deserves to be dismissed.'

3. In the light of the aforesaid, nothing survives in this Writ Petition and the same is dismissed. Connected Miscellaneous Petitions are also closed. No costs.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

rkp

To
The Commercial Tax Officer (SD),
100 Feet Road, Ellapillaichavady,
Pondicherry - 605 005.

+1cc to Mr. Hari Radhakrishnan, Advocate SR.No. 5310

+1 cc to Government Pleader (Pudhucherry) Sr.No. 5502

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and

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A.SK(19.02.2021).

सत्यमेव जयते

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