IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.16170 of 2021
and
WMP. No.17106 of 2021

M/s.Sree Rajendra Steels,
Represented by its Proprietor, Lalit Shah
55, Ponnappa Chetty Street,
Chennai – 600 003.

... Petitioner

Vs

The Assistant Commissioner (CT)-
Moore Market,
Integrated Commercial Tax Offices Building,
Chennai North Division,
Elephant Gate, George Town,
Chennai – 600 001.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to quash the order passed by the respondent dated 22.06.2021 and allow the petitioner to avail the credit to the extent it is blocked.

For Petitioner : Mr.K.Senguttuvan

For Respondent : Mr.TNC.Kaushik
Government Advocate

O R D E R

Mr.TNC.Kaushik, learned Government Advocate accepts notice for the sole respondent/the Assistant Commissioner, Integrated Commercial Tax Office and is armed with instructions to proceed with the matter finally, even at the stage of admission. Thus, by consent expressed by both learned Counsel, this writ petition is disposed even at this juncture.

2. The petitioner is registered as a dealer on the file of the sole respondent in terms of the provisions of the Goods and Service Tax Act, 2017. The petitioner had earlier approached this Court in W.P. No.280 of 2021, seeking a direction to unblock the Input Tax Credit (ITC) available in the electronic credit ledger. By order dated 08.01.2021 in W.P. No.280 of 2021, the petitioner was permitted to approach the appropriate authority seeking relief that would be considered, in accordance with law.

3. Thereafter, the petitioner has approached the respondent by way of a written representation and has been in communication with the respondent. According to the petitioner, all materials necessary to substantiate its request for unblocking of the credit have been supplied to the respondent. However, the case of the respondent appears to be that the claim of ITC is itself bogus insofar as there was no actual movement of the goods at all. To this end, a show cause notice has been issued on 30.03.2021 and the petitioner has been afforded an opportunity of personal hearing on 07.04.2021. Admittedly, this opportunity has not been availed by the petitioner, who cites the lock-down on account of the on-going pandemic.

4. Be that as it may, the impugned order dated 22.06.2021 rejects the claim for ITC simply stating that 'the tax payer has claimed ITC using fake invoices. Hence the corresponding ITC is disallowed'. The claim of ITC is one that would have to be decided based on documents that are supplied by an assessee as well as material collated/available with the Assessing Officer and not by way of a cursory order, as has been done in the present case.

5. The representation of the petitioner dated 18.02.2021 encloses several documents that must be taken into account in coming to a decision as to whether the petitioner is entitled to succeed or not, and this has to be done by way of a reasoned, speaking order. The impugned order hardly meets the standards to be followed in the framing of a assessment and is hence set aside.

6. The petitioner, seeing as it has not filed a reply to the show cause notice dated 30.03.2021, shall appear before the authority on Monday the 16th August of 2021 at 10.30 a.m with its reply to the show cause notice and without expecting any further notice in this regard. After hearing the petitioner and considering the reply as well as the documents filed/to be filed, the authority shall decide the claim of ITC by way of a speaking order, in accordance with law.

7. This writ petition is allowed. Connected miscellaneous petition is also closed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ska/rkp

To

The Assistant Commissioner (CT)-
Moore Market,
Integrated Commercial Tax Offices Building,
Chennai North Division,
Elephant Gate, George Town,
Chennai – 600 001.

+1cc to Special Government Pleader(Taxes) Sr No.38587

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GSM (CO)
PR (01/09/2021)