IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:22.10.2021

CORAM:

THE HONOURABLE Mr. JUSTICE M.SUNDAR

W.P.No.22124 of 2021
and
W.M.P.No.23352 of 2021

M/s.Sri Vardhaman Kraft Papers Pvt. Ltd.,
Represented by its Director,
M.Vardhaman,
104/2, First Floor, Jinnah Street,
Erode - 638 001. ...Petitioner

Vs.

The Assistant Commissioner, (ST) (FAC)
Nethaji Road Assessment Circle,
No.161, Commercial Taxes Building First Floor,
Meenakshi Sundaram Salai,
Erode - 638 001. ...Respondent

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari to call for the records of the respondent in his proceedings in GSTIN: 33AATCS2912D1ZH and quash the proceedings dated 22.06.2021 passed therein.

For Petitioner : Mr.B.Raveendran

For Respondents : Ms.Amirta Dinakaran
Government Advocate

ORDER

Captioned main writ petition has been filed assailing an order dated 22.06.2021 bearing Reference No. GSTIN: 33AATCS2912D1ZH (hereinafter referred to as 'impugned order') which has been made by the sole respondent.

2. To be noted, this Court is informed that the impugned order has been made under Section 73 of the 'Tamil Nadu Goods and Services Tax Act, 2017' ('TN-GST Act' for the sake of brevity).

3. It cannot be necessary to delve into the matter in great detail as Ms.Amirta Dinakaran, learned Revenue counsel, who accepts notice on behalf of lone respondent, on instructions submits that there is a balance of Rs.5,29,327/- (Rupees Five lakhs twenty nine thousand three hundred twenty seven) in the hands of the respondent. However, learned Revenue counsel submits that this is a matter for refund and for this purpose, the writ petitioner may have to make an application for refund in accordance with TN-GST Act and more particularly an application under Section 54 of TN-GST Act. Be that as it may, it is the stated position of the Revenue that if a refund application is made, the same will be considered on its own merits and in accordance with law.

4. In the light of the stated position of the Revenue that there is a balance qua the writ petitioner in the hands of the Department, the impugned order has to necessarily go. As all that the writ petitioner wants is his money back irrespective of the nomenclature under which it is returned to him. The impugned order is set aside recording the stated position of the respondent leaving it open to the writ petitioner to file an application for refund in the aforesaid manner if so advised and if so desired. Though obvious it is made clear that such refund application shall be considered on its own merits and in accordance with law.

5. Captioned writ petition is disposed of on above terms. Consequently, W.M.P.No.23352 of 2021 is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Sgl

To

The Assistant Commissioner, (ST) (FAC)
Nethaji Road Assessment Circle,
No.161, Commercial Taxes Building First Floor,
Meenakshi Sundaram Salai,
Erode - 638 001.

+1cc to the Special Government Pleader, S.R.No.54693

W.P.No.22124 of 2021

PVS(CO)
RVM(22/11/2021)