IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P.No.7072 of 2021
and
W.M.P.No.7586 of 2021

AVTEC Limited,
Poonapalli Village,
Mathagondapalli Post,
Hosur – 635 114. ...Petitioner

Vs.

The Superintendent of Central Tax & GST,
Mathigiri Range, Hosur Division,
Thally Road,
Hosur. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the Respondent in Notice dated 15.02.2021 in OC No.09/2020 and quash the same.

For Petitioner	:	Mr.Adithya Reddy
For Respondent	:	Mr.R.Gunaalan Junior Standing Counsel

ORDER

The prayer sought for herein is for a Writ of Certiorari, to call for the records of the Respondent in Notice dated 15.02.2021 in OC No.09/2020 and quash the same.

2. The impugned order dated 15.02.2021 is a demand of interest on the alleged delay in payment of tax under GST Regime. Challenging the same, this writ petition has been filed.

3. Mr.Adithya Reddy, learned counsel appearing for the petitioner submits that, before issuing the impugned demand, no notice has been issued and no opportunity of being heard was given to the petitioner, therefore, on that ground, he challenges the same.

4. Heard Mr.R.Gunaalan, learned Junior Standing Counsel, who by relying upon the averments made in the counter affidavit filed on behalf of the respondent, would contend that, since there has been a delay in payment of tax, the petitioner is liable to pay the interest that alone since has been demanded. Even if an opportunity of being heard is given to the petitioner, he will not improve the position. Therefore, it may be an empty formality. Therefore, on that ground, he cannot have a successful challenge in the impugned demand.

5. I have considered the said rival submissions made by both sides and have perused the materials placed before this Court.

6. Whatever be the effect of the order i.e., the demand of interest, the same since have a civil consequence on the petitioner, it should have been preceded by a notice to be issued, which admittedly since has not been issued and no opportunity has been given to the petitioner before passing the impugned order, I am of the view that, the impugned order cannot be sustained in the eye of the law, accordingly, it is liable to be set aside. In the result, the impugned order is set aside and the matter is remitted back to the respondent for reconsideration. While reconsidering the same, after issuing a notice to the petitioner and by giving an opportunity of being heard, the respondent/Revenue can pass an order with regard to the alleged demand of interest for the delay in payment of tax. The needful shall be undertaken at the earliest with the cooperation of the petitioner/assessee.

7. Accordingly, this Writ Petition is ordered. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

mp/Sgl

To

The Superintendent of Central Tax & GST,
Mathigiri Range, Hosur Division,
Thally Road,
Hosur.

+1cc to M/s.R.Gunaalan, Advocate, S.R.No.20879

+1cc to M/s.Adithya Reddy, Advocate, S.R.No.20691

W.P.No.7072 of 2021

PMK(CO)
SU(06/04/2022)