IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2022

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.25715 of 2021
and
W.M.P.No.27152 of 2021
(Through Video Conferencing)

M/s. Mayavaram L.K.S.Jewellers,
Rep. by its Partner Ayesha Nihla,
No.3/136, Gandhi Road,
Mayiladuthurai - 609 001,
Nagapattinam District. ...Petitioner

Vs.

The State Tax Officer,
(Roving Squad),
Trichy, Trichy District. ...Respondent

Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in its impugned proceedings made in Order No.46 - Form GST MOV-09, dated 25.08.2021, quash the same and further direct the respondent to refund the tax penalty collected from the petitioner in pursuance of the order dated 25.08.2021.

For Petitioner : Mr.S.Rajasekar

For Respondent : Mr.Richardson Wilson
Additional Government Pleader

O R D E R

Though elaborate arguments were advanced by the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent regarding the Rule 138(14)(a) of the respective GST Rules (i.e. Central and Tamil Nadu Goods and Services Tax Rules) and Section 68(3) of the respective GST Acts (i.e. Central and Tamil Nadu Goods and Services Tax Acts), I am of the view that the petitioner has an alternate remedy by way of appeal before the Appellate Authority under Section 107 of the respective GST Acts.

2.Further, the petitioner has already paid the disputed tax and penalty for securing the release of the detained goods. Therefore, without expressing any opinion on merits, this Writ Petition is being disposed by giving liberty to the petitioner to file appeal against the impugned order dated 25.08.2021, within a period of thirty (30) days from the date of receipt of a copy of this order.

3.If such an appeal is filed by the petitioner, the appellate authority shall entertain such appeal and consider the said appeal to be filed by the petitioner and dispose the same on merits in accordance with law, within a period of thirty (30) days thereafter.

4.It is clear that the amount paid by the petitioner shall be treated as amount paid “under protest” and its appropriation will be subject to the final order to be passed by the appellate authority.

5.This Writ Petition is disposed with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-I)

//True Copy//

Sub Assistant Registrar

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To

The State Tax Officer,
(Roving Squad),
Trichy, Trichy District.

+1cc to Mr.S.Rajasekar, Advocate, S.R.No.1929
+1cc to the Special Government Pleader, (Taxes) S.R.No.1902

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PL(CO)
RGA(17/02/2022)