IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.11471 of 2023
And
W.M.P.Nos.11386 and 11388 of 2023

Tvl.OM Industries
Rep. by its Partner
T.S.Sreedharan ... Petitioner

Vs.

The Deputy Tax Officer,
Special Roving Squad,
Vellore – 632 001. ... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in FORM GST MOV – 09 in Order No.4532/2022-23 dated 18.11.2022, quash the same and direct the respondent to refund the amount of Rs.2,88,528/-.

For Petitioner : Mr.S.Raveekumar
For Respondent : Mr.TMC.Gowshik
Additional Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of

Writ of Certiorarified Mandamus to call for the records of the respondent in FORM GST MOV – 09 in Order No.4532/2022-23 dated 18.11.2022, quash the same and direct the respondent to refund the amount of Rs.2,88,528/-.

2.The learned counsel appearing for the petitioner submitted that the respondent issued show cause notice under Section 129 (3) of the Central Goods and Services Tax Act, 2017 on 18.11.2022 directing the petitioner to appear before the Authority on 19.11.2022, however, the respondent passed the impugned order on 18.11.2022 itself without providing any opportunity to the petitioner.

3.The learned Additional Government Pleader appearing for the respondent submitted that immediately after the show cause notice was issued the petitioner paid the entire penalty amount and hence, the impugned order was passed on 18.11.2022 and hence the writ petition became infructuous.

4.For the alleged violation of Central Goods and Services Tax, the petitioner was issued with show cause notice on 18.11.2022 directing the petitioner to appear before the Authority on 19.11.2022, however, without providing any opportunity to the petitioner the respondent has passed the impugned order on 18.11.2022 itself, which is clear violation of principles of natural justice.

5.In view of the above, the impugned order dated 18.11.2022 is set aside and the matter is remanded back to the respondent for fresh consideration. The respondent need not refund the amount paid by the petitioner, but shall consider the matter afresh and after providing opportunity to the petitioner, shall pass appropriate orders, within a period of six weeks from the date of receipt of a copy of this order.

6.The writ petition is allowed on the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

17.04.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

The Deputy Tax Officer,
Special Roving Squad,
Vellore – 632 001.

M.DHANDAPANI,J.
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**W.P.No.11471 of 2023
And
W.M.P.Nos.11386 and
11388 of 2023**

17.04.2023