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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.04.2023

CORAM

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

W.P.No.11651 of 2023 and
WMP.No.11558 of 2023

M/s.Woodlands Tiffin Rooms
Represented by its Partner,
S.Anirudh,
No.3, Nageswara Rao Road,
T.Nagar, Chennai-600 017. ... Petitioner

Vs

The State Tax Officer
Nandanam Assessment Circle
48, Greenways Road,
R.A.Puram,
Chennai-600 028 ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, calling for the records leading to the isuance of the recovery notice bearing reference TIN: 33021540489 dated 07.03.2023 by the Respondent herein and quash the same, and further direct the Respondent to forthwith refund to the Petitioner the sum deposited with the Respondent under Sec. 51 of TNVAT Act, 2007 for the period after expiry of

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the 90th day from the date of receipt of the appellate order by the Department Representative.

For Petitioner : Mr.Adithya Reddy
For Respondent : Mr.Harsha Raj
Additional Government Pleader

ORDER

Mr.Harsha Raj, learned Additional Government Pleader appearing for the respondent accepts notice for the respondent. In view of the consent expressed by the learned counsel appearing on either side, this Writ petition is taken up for disposal, even at the stage of admission.

2. This writ petition has been filed challenging the recovery notice bearing reference TIN: 33021540489 dated 07.03.2023 issued by the respondent and to direct the respondent to forthwith refund to the Petitioner the sum deposited with the respondent under Section 51 of the Tamil Nadu Value Added Tax Act, 2007 (TNVAT Act, 2007) for the period after expiry of the 90th day from the date of receipt of the appellate order by the Department Representative.

3. Learned counsel for the petitioner submits that the petitioner has filed an appeal in AP.No.37 of 2018 before the Appellate Deputy Commissioner, Chennai Central against the assessment order dated 05.02.2018 and the same

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was allowed by the appellate authority on 29.06.2018. However, without considering the appeal allowed in favour of the petitioner, the respondent had issued impugned demand notice dated 07.03.2023 and had failed to repay the 25% of the amount already deposited during the pendency of the appeal. Hence, the present writ petition is filed.

4. Learned Additional Government Pleader appearing for the respondent would submit that inadvertently the respondent had issued demand notice dated 07.03.2023 without considering the appeal allowed in favour of the petitioner. Hence, this court may quash the impugned demand notice bearing reference TIN: 33021540489 dated 07.03.2023 issued by the respondent and may issue a direction to the petitioner to file an approprite application for refund of the amount.

5. In view of the fair submission made by the learned Additional Government Pleader, impugned demand notice bearing reference TIN: 33021540489 dated 07.03.2023 is quashed and liberty is granted to the petitioner to file an appropriate application for refund of the amount before the respondent within a period of two (2) weeks from date of receipt of a copy of this order. If any such application is filed, respondent is directed to consider the same and refund the amount, if there is no legal impediment, within a period of four (4) weeks from the date of receipt of the application.

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6. This writ petition is disposed of in the aforesaid terms. No costs. Connected Miscellaneous Petition is closed.

mpl **18.04.2023**

Index : Yes / No
Speaking Order / Non Speaking Order
Neutral Citation:Yes/No

To

The State Tax Officer
Nandanam Assessment Circle
48, Greenways Road,
R.A.Puram,
Chennai-600 028

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M.DHANDAPANI, J.

mpl

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