



WEB COPY



W.P.Nos.16535 & 16538 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2023

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.Nos.16535 & 16538 of 2023

and

W.M.P.Nos.15842, 15843 & 15845 of 2023

M/s.Seoyon E-Hwa Summit Automotive India Pvt. Ltd.
(Represented by its Senior Manager - Finance & Accounts)
SIPCOT Industrial Complex
Irungattukottai, Chennai-602 117

.. Petitioner in both WPs

Vs

The Deputy Commissioner (ST)-I
Large Taxpayers Unit,
Nandanam, Chennai-600 035

.. Respondent in both WPs

Prayer in WP.No.16535 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the files of the Respondent in GSTIN/33AAGCS4350J1ZD/2018-19 dated 22.02.2023 and quash the same.

Prayer in WP.No.16538 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records on the files of the Respondent in GSTIN/33AAGCS4350J1ZD/2018-19 dated 18.04.2023 and quash the same.



WEB COPY



W.P.Nos.16535 & 16538 of 2023

(In both WPs)

For Petitioner

: Mr.Sri Prakash

for Mr.P.V.Sudakar

For Respondent

: Mr.V.Prashanth Kiran

Government Advocate

COMMON ORDER

Mr.V.Prashanth Kiran, learned Government Advocate accepts notice for the respondent and is armed with instructions to enable final disposal of these Writ Petitions, even at the stage of admission.

2. The challenge is to an order of assessment passed under the provisions of the Goods and Services Tax Act, 2017 (in short 'Act') dated 22.02.2023 and an order dated 18.04.2023 rejecting the rectification application filed under Section 161 of the Act.

3. I am not inclined to admit or entertain these Writ Petitions for the admitted reason that, as the Officer has set out in the impugned orders, the petitioner has not cooperated in the course of assessment, either original or in the rectification sought.

4. The petitioner was in receipt of various notices including a show cause notice. The notices are ASMT 10 dated 06.12.2021, Notice in GST DRC-01A dated 29.06.2022 and show cause notice dated 18.11.2022.

There is no dispute on the position that the petitioner has, in fact, received



W.P.Nos.16535 & 16538 of 2023

all the notices.

WEB COPY

5. Briefly put, the issue on merits relates to the grant or otherwise of Input Tax Credit (ITC). We are not really concerned with the merits of the matter, though the petitioner has been heard briefly on why the reversal of ITC is stated to be erroneous.

6. It is an admitted position that the petitioner was given sufficient opportunities prior to finalisation of assessment to justify its claim of ITC. The respondent in the show cause notice has clearly set out the claim of ITC calling upon the petitioner to furnish the details of ITC category wise/tax type wise and to explain the variations that he has noticed.

7. According to the petitioner, there could be no variations, since the returns filed by it in GSTR 3B contain its claim of ITC under several types, whereas the returns in Form GSTR 2A and GSTR 9, one filed by the supplier and the other auto-populated, contain details of ITC under only a few categories. The petitioner thus argues that the officer was in error in calling for the particulars and issuing notice.

8. While this may well be so, it is for the petitioner to have responded to the notices furnish the break-up of the ITC claimed under GSTR 3B as sought for by the officer and attempt to reconcile its claim of ITC in the GSTR 3B return with the ITC reflected in GSTR 2A and



W.P.Nos.16535 & 16538 of 2023

GSTR 9. To be noted GSTR 2A is auto populated based on the input set out in GSTR 9, which is filed by the supplier.

9. There was an appearance by an official representative in the petitioner's office before the Assessing Officer on 01.0.2023 when the representative had assured the officer that all records, as required, would be communicated to the officer before 15.02.2023. There was no compliance even on this score. It is hence that the proceedings for assessment were completed on 22.02.2023 without reference to the assessee and I find nothing untoward in this regard.

10. The petitioner has not cooperated in the proceedings for assessment leaving the Assessing Officer no choice but to complete the assessment on the basis of the available materials and without any explanations for his benefit.

11. The petitioner then filed an application under Section 161 of the Act seeking rectification of errors allegedly apparent on record. This application has come to be rejected by way of order dated 18.04.2023.

12. The officer refers to Section 161 of the Act, which provides for rectifications only of an error apparent on the face of record. He enumerates the various opportunities granted to the petitioner to supply the break-up of the ITC claimed and the reconciliation and notes non-



W.P.Nos.16535 & 16538 of 2023

compliance with those directions.

WEB COPY

13. He thus rejects the application under Section 161 for the reason that there was no material available on record that was supplied by the assessee that would point to any error.

14. Before me, an attempt is made to state that the Assessing Officer could well have examined the particulars that accompanying the return that were part of the file might have contained the details that he was looking for, and come to a proper conclusion in law even suo motu, without expecting the petitioner to supply the same.

15. This is too much to expect from the Assessing Officer and it is not for an assessee who has not made even a solitary attempt to cooperate or assist in the assessment proceedings to lay the blame at the doorstep of the revenue.

16. For the aforesaid reasons, these Writ Petitions are dismissed, as are the connected Miscellaneous Petitions. No costs.

06.06.2023

Index:Yes/No
Speaking/Non-speaking order
Neutral Citation:Yes/No
sl

DR. ANITA SUMANTH,J.



W.P.Nos.16535 & 16538 of 2023

WEB COPY

To

sl

The Deputy Commissioner (ST)-I
Large Taxpayers Unit,
Nandanam, Chennai-600 035.

W.P.Nos.16535 & 16538 of 2023
and
W.M.P.Nos.15842, 15843 & 15845 of 2023

06.06.2023