IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.185 of 2021 and
W.M.P. No.253 of 2021

M/s. Star Royal Distributors
Represented by its partner Hameed Sulthan
No.6, Varadarajulu Street,
Egmore,
Chennai 600 008. ... Petitioner

Vs.

1. State Tax Officer,
   Egmore Assessment Circle,
   No.88, Mayor Ramanathan Salai,
   Chennai 600 031.

2. Principal Commissioner of GST and Central Excise,
   Office of the Principal Commissioner of GST
   and Central Excise,
   26/1, Mahatma Gandhi Road, Nungambakkam,
   Chennai 600 034.

... Respondents

PRAYER: 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 file of the 1st Respondent in Order GSTIN33ABMFS5582J1ZN/17-18 dated 02.09.2020 passed by the 1st Respondent and in the consequent caution notice GSTIN33ABMFS5582J1ZN/2017-2018 dated 04.12.2020 issued by the 1st Respondent and quash the same.

For Petitioner : Mr.Joseph Prabakar

For Respondents : Mr.T.N.C.Kaushik for R1
Additional Government Pleader

: Mr.K.Umesh Rao for R2
Senior Standing Counsel

ORDER

The short question that arises for consideration is that the impugned order has been passed without granting personal hearing to the petitioner in compliance with Section 75(4) of the TN GST Act, 2017 read with Section 73(5) of the TN GST Act, 2017.

2. It is submitted by the learned counsel for the petitioner that the petitioner is disentitle to credit only on the premise that the Input Tax Credit has been made in the wrong column in GST TRAN 1. He also submitted that the issue stands resolved in favour of the assessee by the following judgments of this Court in the case of *Pentacle Plant Machineries Pvt Ltd., v. Office of the GST Counsil, Secretariat, New Delhi and others, (2021-VIL-193-Mad)* and in

the case of *Ram Auto v. The Commissioner of Central Taxes & Central Excise and others* in *W.P.(MD)No.15531 of 2020 dated 16.02.2021.*

3. It is submitted by the learned counsel for the respondents that they will redo the assessment after granting an opportunity of hearing to the petitioner.

4. Recording the same, the writ petition is closed with liberty to the respondents to redo the assessment after affording an opportunity of hearing to the petitioner. It is open to the petitioner to place reliance on the above judgments if such reliance is placed, the same shall be dealt with by the assessing officer. No costs. Consequently, connected miscellaneous petition is closed.

17.10.2023

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No
spp/shk

MOHAMMED SHAFFIQ, J.

Spp

To:
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