IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.22255 of 2023
and
W.M.P.Nos.21635 and 21636 of 2023

Tvl.P.G.Textiles
Represented by its Partner Mrs.S.Sofya ... Petitioner

Vs.

The Assistant Commissioner (ST),
Muthialplet Assessment Circle,
Integrated Commercial Taxes Office Complex,
Chennai - 600 003. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order under reference dated 28.06.2023 GSTIN:33AARFP1696A1Z7, for the tax period FY 2021-2022, passed by the respondent herein and to quash the same, in so far as, the said impugned order had been passed without jurisdiction, authority of law and in clear violation to the principles of natural justice.

For Petitioner : Mr.S.Baskaran

For Respondent : Ms.Amirtha Poonkodi Dinakaran
Government Advocate

ORDER

Ms.Amirtha Poonkodi Dinakaran, learned Government Advocate takes notice on behalf of the respondent.

2. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent.

3. The petitioner appears to be a textiles unit engaged in the manufacture of knitted fabrics and lungies. The case of the petitioner is that the petitioner purchased a motor vehicle but had not taken/availed Input Tax Credit on the tax paid thereon on the motor vehicle. However, the respondent had issued a notice in GST DRC-01 on 21.04.2023.

4. In the said notice, the petitioner was called upon to reply within thirty days or making payment in DRC-03 and attend a personal hearing on 02.05.2023 at 3.00 p.m.

5. The petitioner did not take the option that was given to the petitioner in GST DRC-01 notice dated 21.04.2023. Instead, the petitioner has filed a reply on 23.06.2023, which has culminated in the impugned order dated 28.06.2023.

6. The petitioner had uploaded the reply on the same date i.e., on 23.06.2023, which is acknowledged by the portal in Form GST DRC-06.

7. The impugned order states that the petitioner's reply was verified with the datas available in the portal and it was found that the petitioner had availed and utilized the Input Tax Credit accrued on the purchase of motor vehicle during the subsequent period. The amount involved is as follows:-

Financial year	***Act***	***Tax (Amount in Rs.)***	***Interest upto 28.06.2023 (Amount in Rs.)***	***Penalty (Amount in Rs.)***
2021-2022	IGST	0	0	0
	CGST	97555	22371	97555
	SGST	97555	22371	97555
	Total	195110	44742	195110

8. Considering the fact the impugned order has been passed without giving the petitioner an opportunity of hearing although the petitioner filed

reply within the stipulated time, the impugned order is set aside and the case is remitted back to the respondent. However, the petitioner shall debit a sum of Rs.50,000/- as a security within a period of 15 days from the date of receipt of a copy of this order.

9. Subject to such compliance, the respondent shall issue a fresh notice of hearing and dispose the case afresh within a period of 30 days thereafter.

10. The amount to be paid by the petitioner pursuant to this order shall be treated as a "deposit", to be adjusted or appropriated or refunded subject to the final outcome of the fresh proceeding.

11. The present Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

27.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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To

The Assistant Commissioner (ST),
Muthialplet Assessment Circle,
Integrated Commercial Taxes Office Complex,
Chennai - 600 003.

C.SARAVANAN, J.

arb

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