IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.23367 of 2023
and
W.M.P.Nos.22905 and 22906 of 2023

Tvl. Rajendra Steel Industries
Represented by its Partner
41/1, Ground Floor, Armenian Street,
Broadway, Chennai - 600 001. ... Petitioner

Vs.

State Tax Officer (ST),
Loansquare Assessment Circle,
No.32, Third Floor, Elephant Gate Bridge Road,
Chennai. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the Respondent's order dated 01.06.2023 in GSTIN 33AAHFR8250J1Z0/2017-2018 and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mrs.E.Ranganayaki
Special Government Pleader

ORDER

Mrs.E.Ranganayaki, learned Special Government Pleader takes notice on behalf of the respondent.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondent.

3. This Writ Petition is being disposed at the time of admission with the consent of the learned Special Government Pleader for the respondent as the impugned order has been passed without proper discussion.

4. It appears that the petitioner was issued with a Show Cause Notice dated 06.01.2023. On 06.01.2023, the petitioner was called upon to file a reply and to appear for a personal hearing on 06.02.2023. The petitioner has also participated in the aforesaid proceeding. Thereafter, by another notice dated 15.05.2023, the petitioner was called for personal hearing and he was also called upon to produce certain documents in support of the case.

5. The specific case of the petitioner is that the petitioner has produced all the documents and appeared for personal hearing on 01.06.2023. However, on the same date i.e., on 01.06.2023, the impugned order has been passed with the following observations:-

> ***"On receipt of the personal hearing opportunity notice, the taxable person was not appeared for personal hearing on 01.06.2023. No reply or any documents filed by the taxable person. No objections filed by the taxable person so far. Hence the dues assessed and determined the liability under the proviso of section 74 of the TNGST Act, 2017 and levied the ITC reversal, interest due u/s 50 and penalty due u/s 74 as detailed below:-***

ITC Reversal (in Rs.)		***Interest calculated up to date (in Rs.)***		***Penalty at 100% (in Rs.)***		***Total***
CGST	***SGST***	***CGST***	***SGST***	***CGST***	***SGST***	
10608541	***10608541***	***10261336***	***10261336***	***10608541***	***10608541***	***62956837***

> ***<u>Levy of Interest</u>:-***
>
> ***The Tax payer in addition to above tax and penalty, is liable for interest under section 50(3) of the TNGST Act 2017/CGST 2017 for the belated period from the date of wrong availment of input tax credit and upto the date of payment of taxes at the rate of 18% per annum. The tax payer is requested to remit the interest as per section 50(3) of the Act.***
>
> ***An electronically generated summary of this order specifying the amount of Tax, Interest and penalty payable by the taxable person is form GST DRC-07 in the common portal is attached herewith."***

6. A reading of the impugned order makes it clear that the order is non-speaking order in nature.

7. Considering the above, the impugned order is set aside and the case is remitted back to the respondent to pass a speaking order on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

8. Needless to state, before passing such order, the petitioner shall be heard.

9. In any event, the petitioner is directed to file photocopies of the documents within a period of 15 days from the date of receipt of a copy of this order.

10. This Writ Petition is disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

10.08.2023

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

To

State Tax Officer (ST),
Loansquare Assessment Circle,
No. 32, Third Floor, Elephant Gate Bridge Road,
Chennai.

C.SARAVANAN, J.

mac/arb

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