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W.P.No.26457 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26457 of 2023

and

W.M.P.Nos.25865 and 25867 of 2023

M/s.East Coast Constructions and Industries Limited,
Represented by its General Manager-Finance
S.Suresh,
No.4, IDM Building, Moores Road,
Chennai - 600 006.

... Petitioner

Vs.

Assistant Commissioner (ST)
Nungambakkam,
Zone-IV: Chennai Central,
Chennai - 600 031.

... 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 of order under section 73 bearing No.ZD330523028142Y dated 08.05.2023 and summary of the order in Form GST DRC-07 bearing No.ZD330523028142Y dated 08.05.2023 passed by the respondent and quash the same as arbitrary and illegal.



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For Petitioner : Mr.Joseph Prabakar

For Respondent : Mr.C.Harsharaj
Additional Government Pleader

ORDER

Mr.C.Harsharaj, learned Additional Government Pleader takes notice on behalf of the respondent.

2. The petitioner is aggrieved by the impugned Assessment Order bearing Ref.No.ZD330523028142Y dated 08.05.2023.

3. The impugned Assessment Order has preceded the following notices:-

- (i) Notice in Form GST ASMT-10 dated 21.03.2022.
- (ii) Notice in Form GST DRC-01A dated 19.08.2022.
- (iii) Notice in Form GST DRC-01 dated 27.10.2022.

4. The petitioner has not replied to the notices in Form GST DRC-01A and Form GST DRC-01 and therefore, the impugned Assessment Order has been passed on 08.05.2023.



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5. The grievance of the petitioner is that right from the inception of GST with effect from 01.07.2017 all along notices/communications were sent/hosted to the petitioner's Dashboard meant for "View Notices and Orders". However, of late, the respondent has started hosting these notices/communications in "View Additional Notices and Orders" in the Dashboard and thus, the petitioner has failed to notice the notices in Form GST DRC-01A and Form GST DRC-01 dated 19.08.2022 and 27.10.2022.

6. The learned Additional Government Pleader for the respondent would submit that the writ petition is devoid of merits and is therefore liable to be dismissed as there is a proper communication of notices in accordance with Section 169 of the Tamil Nadu Goods and Services Tax (TNGST) Act, 2017.

7. The learned Additional Government Pleader would further submit that the petitioner be allowed to work out its remedy before the Appellate Authority under Section 107 of the TNGST Act, 2017.



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8. That apart, it is submitted that the notices in Form GST DRC-01 dated 27.10.2022 is categorical wherein, it has specified the date within which, the petitioner has to reply i.e., "Date by which reply has to be submitted" by 28.11.2022. It is submitted that the petitioner could have replied to the same within such time.

9. The learned Additional Government Pleader further submitted that the notices in Form GST DRC-01A and Form GST DRC-01 dated 19.08.2022 and 27.10.2022 were also sent to the petitioner through post, although the same is not required under Section 169 of the TNGST Act, 2017. Hence, prays for dismissal of the writ petition.

10. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.



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11. The dispute is on account of mismatch between the details in Form GSTR-1 and Form GSTR-3B. The discrepancy appears to arise on account of the amount deducted by the deductor and declared in Form GSTR-7 which requires to be explained by the petitioner.

12. Court is of the view, the petitioner therefore deserves a fair chance as admittedly there appears to be a discrepancy in the turnover pointed out in Form GST ASMT-10 dated 21.03.2022. and in Form GSTR-1 and Form GSTR-3B.

13. Therefore, Court is not inclined to direct the petitioner to approach the Appellate Authority as the matter would require a proper consideration, so that in case of any other discrepancy, the matter can be later decided in hierarchy of the Appellate Forum prescribed under the TNGST Act, 2017.

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



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

11.09.2023

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

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To

Assistant Commissioner (ST)
Nungambakkam,
Zone-IV: Chennai Central,
Chennai - 600 031.



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C.SARAVANAN, J.

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