IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.27321 of 2023
and
W.M.P.Nos.26752 and 26759 of 2023

M/s.Sansar Auto and Retail Private Limited,
represented by its Director,
No.1-C, Varshaa Apartment,
83 South East Layout,
Fairlands, Salem – 636 016. ... Petitioner

Vs.

The State Tax Officer,
Alagapuram Circle,
Salem ... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari to call for the records of the respondent in his proceedings in Ref.No.GSTIN:33AAPCS5853B1ZB/2019-2020, quash the Summary of Show Cause Notice dated 21.07.2023.

For Petitioner : P.V.Sudakar

For Respondent : Ms.Amirtha Poonkodi Dinakaran
Government Advocate

ORDER

The petitioner has challenged the Impugned Communication in Form GST DRC-01 dated 21.07.2023 issued by the respondent herein.

2. The challenge to the Impugned Notice in Form GST DRC-01 is that it is not a Show Cause Notice but an order as the petitioner has been asked to pay the tax and penalty.

3. It is submitted that petitioner was issued with the notice in Form GST DRC-01A dated 30.12.2022 to which the petitioner has also filed a reply on 16.01.2023. It is submitted that the Impugned Order is contrary to Rule 142(1) of the TNGST Rules, 2017.

4. It is submitted that along with the notice in Form GST DRC-01, a Show Cause Notice is also required to be issued in terms of Rule 142(1) of TNGST Rules, 2017.

5. The learned Government Advocate for the respondent submits that there is only a typographical mistake in the preamble to the Impugned Notice in as much as it is indeed a Show Cause Notice and was issued under Rule 142(1) of TNGST Rules, 2017. It is therefore submitted that the petitioner may be relegated to file a reply.

6. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondent.

7. I have perused the Impugned Communication in Form GST DRC-01 dated 21.07.2023. Rule 142(1) of TNGST Rule 2017 contemplates issuance of a notice in Section 73(1), 74(1) or 76(2) in Form GST DRC 01. It also contemplates issuance of a statement under sub-section (3) to Section 73 and 74 and a summary thereof has to be electronically transmitted in Form GST DRC 02, specifying therein the details of the amount payable.

8. A reading of the Impugned Notice dated 21.07.2023 seems to indicate the respondent has asked the petitioner to pay the amount directly instead of calling upon the petitioner to show cause as to how the amounts

specified therein should not be demanded from the petitioner. Thus, there is a minor mistake in the issuance of the Impugned Order as it seems to give an impression that it is an order of the respondent.

9. Considering the above, the Court is inclined to dispose this writ petition by directing the respondent to issue a corrigendum to the Impugned Notice in Form GST DRC-01 dated 21.07.2023 calling upon the petitioner to Show Cause as to how the amounts should not be demanded in accordance with Rule 142(1) of TNGST Rules, 2017 within a period of thirty (30) days from the date of receipt of a copy of this order. The petitioner shall thereafter reply to the same. The respondent shall endeavor to pass final orders on merits and in accordance with law within a period of six (6) weeks thereafter.

10. Accordingly, the writ petition stands disposed with the above observations and directions. No costs. Consequently, connected miscellaneous petitions are closed.

20.09.2023

Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation :Yes/No
rgm

To

The State Tax Officer,
Alagapuram Circle,
Salem

C.SARAVANAN, J.

rgm

W.P.No.27321 of 2023
and
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20.09.2023