IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.27928 of 2023
and
W.M.P.Nos.27432 and 27433 of 2023

Classic Engineering Enterprises
Represented by its Managing Partner
31A, Classic Engineering Enterprises,
Selva Vinayagar Street,
Thiruvalluvar Nagar, Iti Back Side,
Coimbatore - 641 029. ... Petitioner

Vs.

Assistant Commissioner (CT),
Thudiyalur,
Coimbatore-II,
CTO Complex, Dr.Balasundaram Road,
Coimbatore - 641 018. ... 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 the respondent's order dated 30.06.2021 bearing Reference No.ZD33061001449R and quash the same and direct the respondent to refund the amount of Rs.3,81,430/- (Rupees Three lakh eighty one thousand four hundred and thirty only) debited from the petitioner's cash ledger.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

Mr.V.Prashanth Kiran, learned Government Advocate takes notice on behalf of the respondent.

2. The tax amount has already been recovered from the petitioner pursuant to the impugned Assessment Order dated 30.06.2021.

3. The specific case of the petitioner is that the notices in Form GST DRC-01A and Form GST DRC-01 were not issued to the petitioner prior to the passing of the impugned Assessment Order dated 30.06.2021.

4. That apart, it is submitted that the detailed order has also not been served on the petitioner and only a summary has been uploaded in the web portal. Hence, there is a manifest violation of the principles of natural justice.

5. The learned counsel for the petitioner would submit that in any event, the petitioner may be given an opportunity to file a statutory appeal as no prejudice or harm will be caused to the respondent as the disputed tax has been recovered after the impugned Assessment Order was passed.

6. The learned Government Advocate for the respondent would submit that not only the notices that preceded the impugned Assessment Order dated 30.06.2021 were uploaded in the web portal in terms of Section 169 of the Tamil Nadu Goods and Services Tax (TNGST) Act, 2017, but also, the impugned Assessment Order dated 30.06.2021.

7. Hence, it is submitted that the writ petition at this belated point of time is clearly barred by law and is liable to be dismissed in terms of the decision of the Hon'ble Supreme Court in A**ssistant Commissioner (CT) LTU, Kakinada and others** Vs. **Glaxo Smith Kline Consumer Health Care Limited**, 2020 SCC Online SC 440.

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

9. This Writ Petition is disposed of at the time of admission by giving liberty to the petitioner to file a statutory appeal within a period of thirty days from the date of receipt of a copy of this order, considering the fact that the disputed tax has also been recovered from the petitioner

10. The statutory appeal shall be filed by the petitioner within a period of thirty days from the date of receipt of a copy of this order. The Appellate Authority shall dispose the appeal on merits and in accordance with law within a period of six months thereafter provided, such an appeal is filed by the petitioner within such time.

11. Pending such exercise, all further recovery proceedings shall be kept in abeyance.

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

29.09.2023

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

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To

Assistant Commissioner (CT),
Thudiyalur,
Coimbatore-II,
CTO Complex, Dr.Balasundaram Road,
Coimbatore - 641 018.

C.SARAVANAN, J.

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