BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.30294 of 2023 and
WMP(MD) Nos.26101 and 26102 of 2023

Tvl Meenakshi Marketing Pouch World,
Represented by its Proprietor
B.Bagada Ram,
33A, Kadarkarai Nadar Street,
Opp to Theni old Bus Stand,
Theni. Petitioner

Vs

The Deputy State Tax Officer,
Theni II Assessment Circle,
Theni. Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records in impunged order in REF NO.ZD3310230229211 GSTIN 33BNGPB1586C1ZI/2021-22 Dated 05.10.2023 issued by the respondent and quash the same as illegal, arbitrary and direct the respondent to pass an order afresh furnishing copies of relief upon documents to the petitioner and hear them within such time as may be directed by this Court.

For Petitioner : Mr.N.Sudalaimuthu
For Respondent : Mr.J.K.Jeyaseelan
Government Advocate

<u>O R D E R</u>

The petitioner is a dealer, engaging in the business of mobile and computer accessories and registered under the Goods and Service Tax Act, 2017. The Intelligence Wings officials of the Commercial Tax Department has conducted an inspection in the petitioner's premises on 17.03.2021 and 18.03.2021 and pointed out certain defects that there is an omission of interstate inward supply, omission of outward supply, stock difference and purchase suppression. They have also issued a notice in Form DRC 01A, dated 25.11.2022 mentioning the discrepancies. On receipt of the notice dated 25.11.2022, the petitioner has submitted a representation, dated 27.11.2023. While so, without considering his representation, the respondents have passed an assessment order dated 05.10.2023. Challenging the order of assessment, the petitioner has filed this writ petition.

2.The learned counsel appearing for the petitioner by relying upon the provisions under Section 67(5) of the GST Act submits that during the course of inspection, copies of documents should be furnished to the person concerned before the adjudication and the provision is extracted as under:-

> **67(5) of GST Act-**
>
> The person from whose custody any documents are seized under sub section (2) shall be entitled to make copies thereof or take extracts therefrom in the presence of an authorised office at such place and time as such officer may indicate in this behalf except where making such copies or taking such extracts may, in the opinion of the proper officer, prejudicially affect the investigation.

3.The learned counsel for the petitioner by referring his reply, dated 20.03.2023 submits that in the reply to the notice issued in DRC-01A, dated 01.09.2022, the petitioner has made a specific averment pointing out the provision under Section 67(5). Even thereafter, without furnishing the copies as required to be furnished to this petitioner as per Section 67(5), the respondent has proceeded further and passed an order of assessment.

4.Mr.J.K.Jeyaseelan, learned Government Advocate takes notice for the respondent and fairly submits that the documents as required under Section 67(5) of the Act have not been provided to the petitioner.

5.Considering the submissions made on either side, the impugned order is set aside with a direction to the respondent to furnish the required documents as per Section 67(5) of the GST Act, 2017 to the petitioner within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the respondent shall provide an opportunity and pass orders in accordance with law by considering his representation within a period of four weeks from thereon. No costs. Consequently, connected Miscellaneous petitions are closed.

19.12.2023

NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.
vrn

To

The Deputy State Tax Officer,
Theni II Assessment Circle,
Theni.

B.PUGALENDHI, J.

vrn

Order made in
W.P(MD)No.30294 of 2023 and
WMP(MD) Nos.26101 and 26102 of 2023

19.12.2023