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W.P.No.198 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition No.198 of 2024
and W.M.P.Nos.233 & 234 of 2024

M/s.Malar International,
Represented by its Partner Mrs.Kalpana,
No.8/4, Kumbakonam Road,
Panikankuppam,
Panruti – 607 106.

... Petitioner

-VS-

The Deputy State Tax Officer-I,
Panruti Town,
Cuddalore, Tamil Nadu.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari calling for the records on the file of the respondent in its impugned proceedings in GSTIN 33BHFM4168K1ZO dated 12.09.2023 for the financial year 2020-2021 and quash the same as illegal, arbitrary and not in accordance of provisions of CGST Act, 2017.

For Petitioner : Mr.S.Kannan

For Respondent : Ms.Amirtha Poonkodi Dinakaran, Govt. Adv.



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ORDER

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The petitioner assails an order dated 12.09.2023 by which input tax credit was refused on the basis that the petitioner availed of such credit on the basis of supplies from a non-existent supplier.

2. The petitioner states that a show cause notice dated 03.02.2023 was received from the respondent calling upon the petitioner to show cause with regard to the purchase of goods from M/s.Siba Auto Private Limited. By reply dated 06.03.2023, the petitioner asserted that the supply was genuine and submitted documents such as purchase invoices, bank statements, lorry receipts and E-way bills. In spite of submitting such documents, the petitioner states that the impugned order was issued rejecting the claim for input tax credit on the grounds that gate passes were not submitted and that the supplier could not be traced at the registered place of business in Tamil Nadu.

3. Learned counsel for the petitioner submits that the supplier is still active and functioning at the address specified in paragraph 8 of the



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affidavit in Mangalore, Karnataka. Consequently, the petitioner states that it is possible for the respondent to verify the details of such supplier from the GST common web portal.

4. In response to these submissions, Ms.Amirtha Poonkodi Dinakaran, learned Government Advocate, who accepts notice on behalf of the respondents, submits that a statutory appeal is available against the impugned order. The next submission is that entitlement to input tax credit is governed by Section 16 of the Tamil Nadu Goods and Services Tax Act, and that a registered person is entitled to input tax credit under clause (b) of sub-section 2 thereof only if such person is able to establish that she has received the relevant goods or services. In the case on hand, learned counsel submits that a show cause notice was issued to the petitioner on the basis of an inspection carried out at the premises of the registered supplier in Tamil Nadu. In particular, it is submitted that the registered supplier was found to be not functioning at the relevant premises. Since disputed questions of fact arise, learned counsel submits that the appropriate forum for adjudication is the statutory appellate authority.



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5. From the documents on record, it appears that input tax credit was denied by appraising the documents on record with regard to the alleged purchase of goods by the petitioner from M/s.Siba Auto Private Limited. Therefore, the adjudication of this dispute hinges on the adequacy of evidence in support of the actual purchase and delivery of the goods to the petitioner. Such disputes cannot be conveniently addressed in proceedings under Article 226 of the Constitution of India. Therefore, W.P.No.198 of 2024 is dismissed without any order as to costs by leaving it open to the petitioner to avail of the statutory remedy. Consequently, connected Miscellaneous Petitions are closed.

05.01.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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To

The Deputy State Tax Officer-I,
Panruti Town,
Cuddalore, Tamil Nadu.

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SENTHILKUMAR RAMAMOORTHY,J

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