IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM

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

W.P.No.1625 of 2022
and
W.M.P.Nos.1769 and 1770 of 2022

Tvl.Muthu Rathina Indane Gas Agencies,
Represented by its Proprietor M.Prabhaharan,
No.25-A, T.E.L.C. Complex,
Venkadesapuram,
Perambalur – 621 212. ... Petitioner

Vs.

1. The Joint Commissioner (ST) (Intelligence),
   Trichy Division,
   Heber Road,
   Trichy – 620 001.

2. The State Tax Officer (Inspection Cell-I),
   Office of the Deputy Commissioner (ST) Insp.,
   State GST Office,
   Thillai Nagar,
   Trichy – 620 018.

3. The State Tax Officer,
   Perambalur Circle,
   Behind New Bus Stand,
   Perambalur. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the 2nd Respondent in its impugned proceedings made in GSTIN:33ALKPP8322P1ZI/2019-2020 dated 16.10.2020 and the connected GST Form DCR 7 in Ref.No.ZD3310200037157 dated 16.10.2020 and quash the same as illegal and arbitrary and consequently direct the 3rd Respondent to re-do the assessment in accordance with law.

For Petitioner : Mr.J.Prasanna Kumar

For Respondents : Ms.Amirtha Poonkodi Dinakaran
Government Advocate

ORDER

The Petitioner is before this Court against the Impugned Order dated 16.10.2020 passed by the 2nd Respondent for the Assessment Year 2019-2020.

2. It appears that the Petitioner's registration was canceled and thereafter restored. Under these circumstances, the Petitioner appears to have filed belated returns on 07.07.2020, by which time the Input Tax Credit had partly expired. Therefore, invoking Section 18(2) of the GST Act, 2017, the demand has been confirmed.

3. It is noticed that the Impugned Order dated 06.10.2020 precedes Notice issued to the Petitioner which have been replied by the Petitioner. The Parliament has itself reached out to the assessee in its proposals in the Finance (No.2) Bill, 2024 presented on 23.07.2024.

4. Clause 114 of the Finance (No.2) Bill, 2024 proposes to regularize the delay in filing Input Tax Credit by inserting Section 16(5) and 16(6) of the CGST Act, 2017. A similar exercise is expected in the context of TNGST Act, 2017 as well.

5. This Court has taken a consistent view under similar circumstances by quashing the Impugned Order and remitting the case back to the 2nd Respondent to pass a fresh order subject to the Finance Act being passed.

6. Under these circumstances, Impugned Order dated 16.10.2020 is set aside and the case is remitted back to the 2nd Respondent to pass a fresh order on merits and in accordance with law after the Finance Bill is passed and is enacted and the amendment to Section 16 of the respective GST Act.

Therefore, the Respondents shall await for the Finance Act, to be passed by the Parliament and by the State Legislature.

7. The Writ Petition stands allowed with the above observation and direction. No cost. Consequently, connected Miscellaneous Petitions are closed.

13.08.2024

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

To

1. The Joint Commissioner (ST) (Intelligence),
   Trichy Division,
   Heber Road,
   Trichy – 620 001.

2. The State Tax Officer (Inspection Cell-I),
   Office of the Deputy Commissioner (ST) Insp.,
   State GST Office,
   Thillai Nagar,
   Trichy – 620 018.

3. The State Tax Officer,
   Perambalur Circle,
   Behind New Bus Stand,
   Perambalur.

C.SARAVANAN, J.

rgm

W.P.No.1625 of 2022
and
W.M.P.Nos.1769 and 1770 of 2022

13.08.2024