IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.7002 of 2024 and
W.M.P.Nos.7813 & 7814 of 2024

M/s.Adhilakshmi Agencies,
Represented by its Proprietor,
Mr.A.Sathyamoorthy,
No.23B, Yathothakari Sannathi Street,
Kancheepuram-631 501. ...Petitioner

Vs.

The Assistant Commissioner (ST) (FAC),
Kancheepuram Assessment Circle,
CT Building, First Floor,
Collectorate Campus,
Kancheepuram-631 501. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the impugned proceedings of the respondent in GSTIN:33ASNPS6628P1ZT/2017-2018 dated 18.12.2023 and quash the same as passed contrary to the facts and circumstances of the case and also contrary to the provisions of the CGST Act, 2017 and TNGST Act, 2017.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

O R D E R

An order dated 18.12.2023 is challenged by this writ petition.

2. The petitioner is a dealer in cement and a registered person under applicable GST enactments. In relation to Input Tax Credit (ITC) availed of by the petitioner, notice in Form ASMT 10 was issued to the petitioner on 30.08.2023 on the ground that the petitioner had availed of ITC in excess. By reply dated 28.09.2023, the petitioner stated that these excess amounts pertain to the issuance of credit notes by some suppliers. The petitioner further stated that ITC was reversed in cases where credit notes were issued and that such reversal is reflected in the GSTR 3B returns filed for August and September 2018. The petitioner also submitted that such reversal is indicated in the annual return of the petitioner. The impugned assessment order was issued in these circumstances by concluding that the petitioner had not reversed ITC.

3. Learned counsel for the petitioner referred to the GSTR 3B returns for August and September 2018 and to the annual return in GSTR 9 to submit that an aggregate sum of Rs.18,03,910/- was reversed and that this exceeds the demand confirmed under the impugned order.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. On instructions, he submits that the petitioner did not reverse ITC in the relevant GSTR 3B and GSTR 9 returns. He has placed on record copies of such returns.

5. From the above, it appears that there is contradiction between the returns relied on by the petitioner and those relied on by the respondent. For the just determination of this controversy, this aspect needs to be re-examined. Solely for that reason, the impugned order calls for interference.

6. Therefore, the impugned assessment order is quashed and the matter is remanded for reconsideration. The petitioner is permitted to once again submit the GSTR 3B and GSTR 9 returns before the assessing officer within a period of two weeks from the date of receipt of a copy of this order. Upon consideration thereof and after providing a personal hearing to the petitioner, the assessing officer is directed to issue a fresh order within a period of two months from the date of receipt of these documents from the petitioner.

7. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.03.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

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To

The Assistant Commissioner (ST) (FAC),
Kancheepuram Assessment Circle,
CT Building, First Floor,
Collectorate Campus,
Kancheepuram-631 501.

SENTHILKUMAR RAMAMOORTHY,J.

Kj

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