IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.10636 of 2022
and
W.M.P.Nos.10282 and 10284 of 2022

M/s.H.T.L.Logistics India Private Limited,
Represented by its Senior Manager – Finance & Admin
A.Jacob Yuvaraj ... Petitioner

Vs.

1.The State Tax Officer,
Madipakkam.

2.The State Tax Officer (Circle),
Nungambakkam Zone IV,
Chennai Central, Chennai. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the files of the 2nd respondent in Reference No.ZD330322001607Z dated 08.03.2022 relating to the year 2018-2019 and quash the same as being without jurisdiction and violative of principles of natural justice and hence invalid and illegal.

For Petitioner : Mr.V.Srikanth

For Respondents : Mr.V.Prashanth Kiran
Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

2. By this Order, this Writ Petition is being disposed of without expressing any opinion on merits of the case.

3. The specific case of the petitioner appears to be that the Order dated 08.03.2022 which has been impugned in this Writ Petition is merely a summary of the Order and that no detail order was furnished to the petitioner.

4. That apart, it is further case of the petitioner that the petitioner was also not served with a notice in DRC-01 prior to the Impugned Order calling the petitioner for hearing.

5. Today i.e., on 13.11.2024 when the case was taken up for hearing, the learned Government Advocate for the respondents has produced a copy of the detailed Order signed by the State Tax Officer, Madipakkam Assessment Circle the first respondent herein. Copy of the same is captured below:-

ORDER

Tvl.H T L LOGISTICS INDIA PRIVATE LIMITED, Supplier of Services doing business at Awfis, Uthamar Gandhi Road, opp. To the Park Hotel, Nungambakkam, Chennai – 600 034 who were a registered taxpayer under TNGST Act, 2017 and filed monthly returns in Form-GSTR-3B the year 2018-19 respectively.

1) Defect : Tax not paid on Additional Liability reported in Form GSTR – 1

On verification of Form GSTR-3B returns with Form GSTR-1 returns filed by them, it was noticed that they have reported additional tax liability in respect of outward supplies in GSTR-1 and not paid taxes thereon, as detailed below:

Return Type	***SGST***	***CGST***	***IGST***
GSTR1	Rs. 17187886/-	Rs. 17187886/-	Rs. 5971586/-
GSTR3B	Rs. 17577241/-	Rs. 17577241/-	Rs. 5774517/-
Difference	Rs. 389354/-	Rs. 389354/-	Rs. 197069/-

Therefore, they have liable to pay the short paid taxes along with interest payable thereon under Section 50 and a penalty equivalent to tax, as per the provisions of Section 73 of the Act, as follows:

Details of liabilities proposed

Tax Type	*Tax (Rs.)*	*Penalty (Rs.)*
CGST	Rs. 389354/-	Rs. 389354/-
SGST	Rs. 389354/-	Rs. 389354/-
IGST	Rs. 197069/-	Rs. 197069/-

2) Defect : ITC Mismatch

On verification of Form GSTR-3B returns with Form GSTR-2A details, it was noticed that they have excess claimed ITC as detailed below:

Particulars	*SGST ITC*	*CGST ITC*
ITC as per GSTR-3B	Rs. 9892251/-	Rs. 9892251/-
ITC as per GSTR-2A	Rs. 7815767/-	Rs. 7815767/-
ITC mismatch (GSTR-3B-GSTR-2A)	Rs. 2076484/-	Rs. 2076484/-

Therefore, they have liable to pay the taxes in account of ITC reversal along with interest payable thereon under Section 50 and a penalty equivalent to the tax, as per the provisions of Section 73 of the Act as follows:

Details of liabilities proposed

Tax Type	*Tax (Rs.)*	*Penalty (Rs.)*
CGST	Rs. 2076484/-	Rs. 207648/-
SGST	Rs. 2076484/-	Rs. 207648/-

Interest proposed @ 18% of Tax

Accordingly, a Notice in ASMT-10 and DRC-01 were issued to the taxpayer and calling for his objection if any on the above proposals, and a personal hearing was awarded. The taxpayer has not filed any objection proposed assessment and the taxpayer has not attended personal hearing.

Hence, I assess the Taxpayer under Section 73 of the Tamil Nadu Goods and Services Tax Act, 2017, as detailed below:-

<u>Total demand proposed</u>

Nature of defect	*Tax type*	*Tax*	*Penalty*	*Interest*
Tax not paid on Additional Liability reported in Form GSTR-1	CGST	Rs. 389354/-	Rs. 389354/-	Rs. 93444/-
	SGST	Rs. 389354/-	Rs. 389354/-	Rs. 93444/-
	IGST	Rs. 197069/-	Rs. 197069/-	Rs. 47296/-
ITC Mismatch	SGST	Rs. 2076484/-	Rs. 2076484/-	Rs. 498356/-
	CGST	Rs. 2076484/-	Rs. 2076484/-	Rs. 498356/-

<u>Act wise Total Due</u>

Tax Type	*Tax*	*Penalty*	*Interest*
CGST	Rs. 2465838/-	Rs. 2465838/-	Rs. 591800/-
SGST	Rs. 2465838/-	Rs. 2465838/-	Rs. 591800/-
IGST	Rs. 197069/-	Rs. 197069/-	Rs. 47296/-

6. A reading of the aforesaid Order indicates that barring a Show Cause Notice in DRC-01 dated 02.02.2022, there has been no attempt on the part of the respondents to call upon the petitioner for personal hearing. It merely states

that the petitioner was granted time to file a reply but did not file the same. There is also no reference to the Personal Hearing Notice. Therefore, the petitioner has approached this Court immediately after the Impugned Order was passed.

7. Therefore, to balance the interest of the petitioner and the revenue, the Impugned Order is liable to be set aside and the case deserves to be remitted back to the respondents to pass a fresh order.

8. Therefore, the Impugned Order dated 08.03.2022 is quashed and the case is remitted back to the respondents to pass a fresh order.

9. The Impugned Order which stands quashed together with the detailed Order which has been captured in this Order shall be treated as a corrigendum to the Show Cause Notice in DRC-01.

10. The petitioner shall file a reply within a period of 30 days from the date of receipt of a copy of this order. Since the dispute pertains to the Assessment Year 2018-2019, it is expected that the respondents will pass a

fresh order on merits and in accordance with law as expeditiously as possible, preferably, within a period of 3 months thereafter.

11. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

13.11.2024

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

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To

1.The State Tax Officer,
Madipakkam.

2.The State Tax Officer (Circle),
Nungambakkam Zone IV,
Chennai Central, Chennai.

C.SARAVANAN, J.

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