IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.17223 of 2024
and
W.M.P.Nos.19004, 19005 & 19006 of 2024

M/s.P.A.R.K Industries Pvt Ltd.,
No.2, MelmaRoad, Pudupatu Village,
Kancheepuram, Represented by its Senior
Manager Mr.PADMACHARAN BEHERA ... Petitioner

Vs.

1.The Deputy Commissioner (ST),
GST-Appeal, Chennai-II, Chennai-600 006.

2. The Deputy Commissioner (ST),
Chengalpattu Zone, No.26, Abirami Complex,
Mahalakshmi Nagar, Thimmavaram,
Chengalpattu- 603101.

3. The Assistant Commissioner (ST),
Review Appeal and Legacy Zone XII, Kancheepuram.

3. The State Tax officer,
Maduranthakam, Zone-XII, Chengalpattu. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st Respondent in Appeal no.RC/174/2022 dated 30.08.2023 and quash the same and a direction to the 1st Respondent to restore the appeal in A.P.No.174/2022 and adjudicate the matter on merit, in accordance with law and consequently a direction to the 2nd to 4th Respondents to not take any coercive steps upon the strength of the order passed by the 3rd Respondent in order no.33AAFCP3952Q1ZX dated 11.12.2020 until the disposal of the said appeal by the 1st Respondent.

For Petitioner : Mr.S.Venkatachalam
For Respondents : Mr.J.N.C.Kaushik
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 30.08.2023 passed by the 1st Respondent and to quash the same with a direction to the 1st Respondent to restore the appeal in A.P.No.174/2022 and adjudicate the matter on merits, in accordance with law and consequently for a direction to the Respondents 2 to 4 not to take any coercive steps upon the strength of the order passed by the 3rd Respondent in order no.33AAFCP3952Q1ZX dated 11.12.2020 until the disposal of the said appeal by the 1st Respondent.

2. The learned counsel for the petitioner would submit that initially the 2nd Respondent issued a Show Cause notice dated 16.10.2020 under Rule 86(A) of the Tamil Nadu Goods and Services Rules, 2017 (in short 'TNGST Rules') for which the Petitioner submitted its reply on 17.10.2020, 03.11.2020 and 21.11.2020 along with necessary documents, but the 3rd Respondent passed the blocking order dated 11.12.2020. Against which, the Petitioner filed an Appeal before the 1st Respondent on 24.02.2021. Pending disposal of the same, the 4th Respondent issued a Show Cause Notice for the same cause on 05.05.2021, for which the Petitioner submitted a reply dated 06.05.2021. But the 4th Respondent without considering the same has passed 2nd blocking order dated 06.05.2021 and the said order was not communicated to the Petitioner.

3. The learned counsel for the Petitioner further submitted since the order under Rule 86A is valid for a period of only one year, without giving effect to the unserved order dated 06.05.2021, blockage of ITC

was lifted. He further submitted that the Petitioner under the bonafide impression that their clarifications were accepted and because of which the blockage was lifted, has withdrawn the Appeal before the 1st Respondent on 30.08.2023. He further submitted that soon after the receipt of the withdrawal order, the 1st Respondent initiated enforcing of the 2nd blocking order dated 06.05.2021 vide notice dated 22.09.2023 and the Petitioner came to know of the order dated 06.05.2021, only after the issuance of the aforesaid notice. In the meanwhile, the 4th Respondent passed the 3rd blocking order on 31.12.2023. Since Appeal could not be preferred against the said order, due to limitation, the Petitioner moved this Court by way of W.P.No.7876 of 2024 and this Court disposed of the said Writ Petition with the following observations:

> "*The respondents issued an assessment order on 11.12.2020. After filing an appeal against such order, the appeal was withdrawn on 30.08.2023 on the misconception that the unblocking of the ITC redressed the petitioner's grievance. Since the assessment order is not under challenge in this writ petition, no relief can be granted when the challenge in the writ petition is limited to the order blocking the ITC. Therefore, by leaving it open to the petitioner to challenge the assessment order in accordance with law, W.P.No.7876 of 2024 is closed. Consequently, connected miscellaneous also closed. No costs*."

4. Further, he would submit that in the show cause notice dated05.05.2021 and 22.09.2023 a reference was made with respect to Rule 86 (A) of the GST Act, 2017. Therefore, the Petitioner has filed this Writ Petition seeking to quash the withdrawal order dated 30.08.2023 and for a direction to the 1st Respondent to restore the Appeal and adjudicate the matter on merits and in accordance with law. He further submitted that

5. Per contra, the learned Additional Government Pleader (Taxes) would submit that in the present case 1st blocking order was passed on 11.12.2020 and as the same was expired, the Respondent unblocked the credit and the petitioner was permitted to operate the respective ledgers. Therefore, the reference made in the Show Cause notice with respect of Rule 86 (A) of the Act is not going to affect the petitioner with regard to the blocking of the credit for a period of one year. He further submitted that the prayer in the Appeal is only to set aside the 1st blocking order dated 11.12.2020 which will already expired after a period of one year and hence the relief sought for in the Appeal has become infructuous, immediately upon the expiry of the one year from the date of blocking

order and therefore setting aside the withdrawal order of the Appeal will serve no purpose. He therefore prays for the dismissal of the Writ Petition.

7. I have given due consideration to the submissions made by the learned counsel appearing on either side.

8. In the present case, 1st blocking order was passed on 1112.2020 and thereafter in terms of Section 86A(3), the order was cease to have effect after expiry of a period of one year i.e., 11.12.2021 and therefore the Respondent has permitted the petitioner to operate the ledger accounts. Since the petitioner was permitted to operate their respective ledgers, Appeal filed by the Petitioner has been withdrawn. The only grievance of the Petitioner is that a reference has been made in the show cause notices with regard to Rule 86 (A) of the GST Act, 2017 and therefore they seek to restore the Appeal. As rightly contended by the learned counsel for the Respondents, since the blocking order is valid only for a period of one year, the prayer in the Appeal has automatically become infructuous and therefore the prayer in the Appeal cannot be

entertained.

9. In such view of the matter, this Writ Petition is dismissed, with liberty to the Petitioner to approach the authorities concerned for redressal of their grievance.

10. With the above directions, this Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are also closed.

05.09.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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KRISHNAN RAMASAMY.J.,

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To

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