IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2024

CORAM

THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.P.No.19213 of 2024
AND
W.M.P.No.21080 of 2024

M/s.Trupthi Enterprises
Rep. by its Proprietor R.Nagaraj,
D.No.3/A 687 & 688, Vasavi Complex,
Vaishnavi Nagar, Hosur. .. Petitioner

Vs

The Assistant Commissioner [ST],
Hosur [South – I], Hosur. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of he respondent in CAG 2017-18/Para 2.5.3.5 TIN: 33413361401/2017-18 dated 08.12.2022 quash the same and further direct the respondent to refund the amount of Rs.1,56,134/- with interest recovered from the petitioner.

For Petitioner : Mr.V.Sundareswaran

For respondent : Mr.V.Prashanth Kiran
Government Advocate [T]

ORDER

Challenging the assessment order dated 08.12.2022, passed by the respondent and for a direction to the respondent to refund the amount of Rs.1,56,134/- with interest recovered from the petitioner.

2. The learned counsel appearing for the petitioner submitted that the petitioner is not a manufacturer of any goods and he is only a re-seller. The petitioner is also filing the returns declaring the same as sales either under the Tamil Nadu Value Added Tax Act, 2006 and also under the Central Sales Tax Act, 1956. Whereas the impugned Order has been passed directing the petitioner to pay 14.5% interest instead of 5%. In this regard the petitioner has given rectification application on 04.02.2023. Since the entire tax amount has already been recovered from the petitioner, he is entitled for refund. Hence, the order passed by the respondent has to be set aside.

3. The learned Government Advocate appearing for the respondent submitted that a rectification application has to be filed by the petitioner and on such application, the same will be considered. Further, he would submit that the rectification application filed by the petitioner has not been received by the Department. Hence, he would submit that the petitioner may be directed to file a fresh rectification application, for which the petitioner still have time limit and

the time limit has not been expired.

4. In reply, the learned counsel appearing for the petitioner submitted that the petitioner will submit a copy of the rectification application dated 04.02.2023 to the respondent.

5. Considering the submissions made by the petitioner as well as the respondent, since no Order has been passed in the rectification application filed by the petitioner dated 04.02.2023, this Court is inclined to dispose of this Writ Petition with the following Order : -

[i] that the petitioner is directed to file a copy of the rectification application dated 04.02.2023 to the respondent within a period of 15 days from the date of receipt of a copy of this Order.

[ii] on such application being filed, the respondent is directed to dispose of the rectification application within a period of four weeks thereafter, after affording an opportunity of personal hearing to the petitioner.

6. With the above directions, this writ petition is disposed of. No costs. Connected W.M.P. is closed.

21.08.2024

vrc

Index : Yes/No
Neutral Citation : Yes/No

To

The Assistant Commissioner [ST],
Hosur [South – I], Hosur.

KRISHNAN RAMASAMY, J.

vrc

W.P.No.19213 of 2024

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