IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2024

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THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.P.No.22017 of 2024
AND
W.M.P.Nos.23995 & 23996 of 2024

M/s.Natural Products Export Corporation Ltd.,
Rep. by Director Sanjay Sanwari
No.52A, Padu Road, Irulanpalayam,
Kuthambakkam Village, Poonamallee Town,
Tiruvallur – 600 124. .. Petitioner

Vs

1. Government of Tamilnadu
   Rep. by its Secretary, Commercial Taxes Department,
   Fort St. George, Chennai – 600 009.

2. The Joint Commissioner [ST],
   Poonamallee Jurisdiction, Collectorate Campus,
   Kancheepuram – 631 500.

3. The Assistant Commissioner [ST],
   Poonamallee Jurisdiction, Collectorate Campus,
   Kancheepuram – 631 501. .. Respondents

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 impugned Order passed under Section 73 of the SGST Act bearing reference No.ZD3312232877581 dated 31.12.2023 read with DRC-7 bearing Reference

No. ZD3312232877581 dated 31.12.2023 for the F.Y. 2017-18 by the fourth respondent, Assistant Commissioner (ST) and quash the same and consequentially remand the matter back to the jurisdictional Authority for enquiry giving an opportunity of hearing to the petitioner which this Court may deem fit in the circumstance.

For Petitioner : Mr.Thirumalai Rajagopal

For respondents : Mr.G.Nanmaran
Special Government Pleader [T]

O R D E R

Challenging the impugned Order in reference No.ZD3312232877581 dated 31.12.2023 read with DRC-7 bearing Reference No. ZD3312232877581 dated 31.12.2023 for the F.Y. 2017-18 of the fourth respondent, this Writ Petition has been filed.

2. The learned counsel appearing for the petitioner submitted that the petitioner imported goods from China during the months of July, August, September and October 2017 under valid Bill of Entries by paying Integrated Goods and Services Tax amounting to Rs.80,70,105/-. The petitioner also availed Input Tax Credit for the aforementioned IGST amount as reflected in

the Form in its GSTR-2A returns for the relevant period. However, due to an inadvertent omission, while filing the GSTR-3B returns for the months of July, August, September and October 2017, the petitioner failed to reflect the IGST details amounting to Rs.85,70,105/- as reflected in GSTR-2A. Consequent to this Omission, the fourth respondent initiated proceedings and issued Form GST DRC-01 for which the petitioner submitted a reply elucidating the circumstances of the inadvertent omission by providing all relevant details pertaining to IGST payment and ITC availment. Without considering the same, the impugned Order came to be passed. Hence, the present Writ Petition.

3. The learned Special Government Pleader appearing for the respondents submitted that as the petitioner failed to reflect the IGST details in GSTR-2A rectification application, the impugned Order came to be passed and if the petitioner furnish relevant particulars, the same will be considered by the authorities.

4. A perusal of records reveals that the petitioner has paid Integrated Goods and Services Tax amounting to Rs.85,70,105/- on the imported Goods and the same is not in dispute. It is also not in dispute that the petitioner availed Input Tax Credit of the IGST paid on the imports as permissible under

the SGST Act. Though the petitioner filed GSTR-2A returns for the relevant period reflecting IGST details, while filing GSTR-3B returns for the months of July, August, September and October 2017, the petitioner inadvertently omitted to include the IGST details of Rs.85,70,105/-. The learned Special Government Pleader also submitted that if the relevant Bill of Entries are submitted, the same will be considered by the authorities.

5. Considering the submissions made by the petitioner as well as the respondent, this Court is inclined to set aside the impugned Order and while setting aside the impugned Order, this Court passes the following Order :

[i] that the petitioner is directed to furnish bill of entires to the respondent within a period of two weeks from the date of receipt of a copy of this Order.

[ii] Thereafter, the fourth respondent is directed to afford an opportunity of personal hearing to the petitioner and taking into consideration of the Bill of Entries, pass Order on merits and in accordance with law within a period of four weeks.

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

21.08.2024

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Index : Yes/No
Neutral Citation : Yes/No

To

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KRISHNAN RAMASAMY, J.

vrc

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