IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.21874 of 2024
and
W.M.P.Nos.23870 & 23872 of 2024

Tvl.Sri Shanmuga Traders,
Rep., by its Proprietor Mr.Pechimuthu Perumal
No.3/396a, Venrasi Amman Koil Street,
Karapakkam, Chennai 600 097. ...Petitioner

Vs.

State Tax Officer (ST)(FAC)
Sholinganallur Assessment Circle,
Room No.240, Second Floor,
Integrated Commercial Taxes and
Registration Building, South Tower,
Nandanam, Chennai 600 035. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarifi, calling for the records relating to the impugned Assessment Order dated 29.04.2024 in bearing GSTIN.No.33ARTPP0824B1ZZ/2018-2019 issued by the respondent and its consequent attachment over the Credit Ledge balance of ITC being blocked and quash the same.

For Petitioner : Mr.A.Abdul Rahman
For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Tax)

ORDER

By consent of the parties, the main Writ Petition is taken up for disposal at the admission stage itself.

2. The challenge in the Writ Petition is to the order dated 29.04.2024 passed by the respondent and the consequential attachment over the Credit Ledge balance of ITC being blocked and to quash the same.

3. Mr.A.Abdul Rahman, learned counsel for the petitioner contended that the respondent passed an impugned order dated 29.04.2024, on the ground that the petitioner has failed to produce the Vehicle movement details, such as Lorry receipt, TRIP sheet etc, which is mandatory, in terms of Section 16(2)(b) of the CGST Act. However, it is the main contention of the learned counsel for the petitioner that the alleged transaction, which formed the basis for the issuance of impugned order, took place with the supplier, who was a registered taxpayer and valid GST holder, however, subsequent to the said transaction, since the supplier suo moto cancelled the GST registration with retrospective effect, the same cannot be constructed, as if, every transaction that took place between the petitioner and the supplier during the said period would become invalid, and thereby, penalising the petitioner on account of default committed by the supplier is not fair, when the fact remains that the petitioner has earlier paid the due tax payment to the registered and valid GST supplier and document relating to the same is submitted. Therefore, the learned counsel contended that the impugned notice infringes Article 14 of the Constitution of India and violates the direction issued by this Court time and again, hence, prayed for setting aside the impugned order.

4. Per contra, Mr.V.Prashanth Kiran, learned Government Advocate appearing for the respondent justified the impugned order by contending that in terms of Section 16(2)(b) of the CGST Act, every tax payer, who intends to avail the benefit of Input Tax Credit (in short, 'ITC'), are supposed to furnish the particulars such as Vehicle movement details, Lorry Receipt and TRIP Sheet along with proper explanation, since the petitioner failed to produce the same, the impugned assessment order came to be passed by the respondent, and the same cannot be found fault with. However, he fairly submitted that, if at all the petitioner is aggrieved by the impugned order, the only alternative remedy available is to prefer Appeal against the impugned order before the Appellate Authority, and therefore, the Writ Petition challenging the order dated 29.04.2024 is not maintainable.

5. Heard Mr.A.Abdul Rahman, the learned counsel for the petitioner as well as Mr.V.Prashanth Kiran, learned Government Advocate (Tax), who takes notice on behalf of the respondent and perused the materials available on record.

6. Upon perusal of the materials, it is clear that in terms of Section 16(2)(b) of the CGST Act, every tax payer, who intends to avail the benefit of Input Tax Credit (in short, 'ITC'), are supposed to furnish the particulars such as Vehicle movement details, Lorry Receipt and TRIP Sheet along with proper explanation. However, in the case on hand, since the petitioner failed to furnish those particulars, the impugned assessment order came to be passed by the respondent.

6.1 Thus, as rightly pointed out by the learned Government Advocate, if at all the petitioner had any grievance over the impugned order, the petitioner has an alternate and efficacious remedy of filing an appeal before the Appellate Authority, however, instead of doing so, the petitioner has rushed before this Court challenging the same, by way of filing the present Writ Petition, which, this Court is not inclined to interfere with.

7. In the result, this Writ Petition is dismissed. However, liberty is granted to the petitioner to challenge the order impugned herein by way of an before the Appellate Authority within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
jd

To
State Tax Officer (ST)(FAC)
Sholinganallur Assessment Circle,
Room No.240, Second Floor,
Integrated Commercial Taxes and
Registration Building, South Tower, Nandanam, Chennai 600 035.

Krishnan Ramasamy,J.,

jd

W.P.No.21874 of 2024

12.08.2024