IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.24677 & 16442 of 2024
& W.M.P.Nos.26996, 26997, 17993 & 17994 of 2024

Tvl.Annai Earth Movers,
Rep by its Proprietor – S.Rajasekar,
No.2, T.V.K. 2nd Link Road,
K.M.Nagar, Kodungaiyur,
Chennai, Tamil Nadu 600 118.

... Petitioner in both petitions

Vs.

The Assistant Commissioner (ST)(FAC),
Kodungaiyur Assessment Circle,
Station No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai 600 003.

... Respondents in both petitions

Prayer in W.P.No.24677 of 2024:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent's order in GSTIN: 33AUKPS8270Q1ZO/2022-2023 dated

26.08.2023 and quash the same as it has been passed in violation of principles of natural justice.

Prayer in W.P.No.16442 of 2024:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent's order in GSTIN: 33AUKPS8270Q1ZO/2022-2023 dated 26.08.2023 and order confirming the same in GSTIN: 33AUKPS8270Q1ZO/2022-23 dated 02.04.2024 and quash the same.

For Petitioner
in both petitions : Mr.Theertha Narayanan,
for Mr.Adithya Reddy

For Respondent
in both petitions : Ms.K.Vasanthamala,
Government Advocate

COMMON ORDER

These writ petitions have been filed challenging the impugned orders dated 26.08.2023 and 02.04.2024 passed by the respondent.

2. Ms.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petitions are taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that subsequent to the show cause notice dated 21.07.2023, the impugned order came to be passed by the respondent on 26.08.2023 without providing an opportunity of personal hearing to the petitioner. Immediately after passing of the impugned assessment order, a rectification application was also filed by the petitioner and the same was rejected by the respondent vide impugned order dated 02.04.2024. Hence, he requests this Court to set aside the impugned orders passed by the respondent.

4. On the other hand, the learned Government Advocate appearing for the respondent would submit that the respondent has uploaded the notices in the GST Online Portal. But the petitioner failed to avail the

said opportunity. Under these circumstances, the impugned assessment order came to be passed by the respondent on 26.08.2023. Subsequently, the rectification application filed by the petitioner was also rejected by the respondent vide impugned order dated 02.04.2024. Further, she would submit that the petitioner can very well avail the alternate remedy available to them by way of filing an appeal and requests this Court to pass appropriate orders.

5. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondent and also perused the materials available on record.

6. The issue raised in the present petitions is with regard to the eligibility of the petitioner to avail the Input Tax Credit for the purchase of a Tipper Truck. The said dispute has to be decided on facts and as contended by the learned Government Advocate appearing for the respondent, the alternate remedy is very much available to the petitioner to present their case. In such case, if the petitioner is not satisfied with

the said impugned assessment order, they can very well avail the alternate remedy by filing an appeal before the concerned Appellate Authority. Therefore, this Court is not inclined to entertain these petitions.

7. Accordingly, these writ petitions are dismissed by granting liberty to the petitioner to file an appeal before the concerned Appellate Authority, against both the assessment order and rectification order, within a period of 30 days from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are also closed.

29.08.2024

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

To

The Assistant Commissioner (ST)(FAC),
Kodungaiyur Assessment Circle,
Station No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai 600 003.

KRISHNAN RAMASAMY.J.,

nsa

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