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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24895 of 2024 &
W.M.P.Nos.27244 and 27245 of 2024

M/s.M.K.Enterprises
Rep. by its Proprietor
Sri.Nirmal Kumar Jain,
No.2, 160, Govindappa Naicken Street,
Chennai- 600 001. ... Petitioner

Vs.

The Deputy State Tax Officer -I
Sowcarpet Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai- 600 003. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the respondent in GSTIN:33AAFPJ8787Q1ZT/2019-20 and quash the proceeding dated 13.08.2024 passed therein.

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For Petitioner : Mr.Raveendran B

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader (Taxes)

ORDER

This writ petition has been filed by the Petitioner challenging the proceeding of the Respondent dated 13.08.2024.

2. Mr.C.Harsha Raj, learned Additional Government Pleader (Taxes) takes notice on behalf of the respondent.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner would submit that the Respondent issued notice dated 07.06.2024 to the Petitioner alleging that M/s.Murugan Textiles from whom the Petitioner purchased scrap was not in existence and therefore directed the Petitioner to reverse the ITC on the ground that it is an ineligible ITC and on receipt of the said notice, the Petitioner filed a reply dated 25.06.2024, along with invoice and e-Way Bill, but the Respondent without considering the same has passed

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the impugned order dated 13.08.2024. He therefore prays to set aside the same.

5. On the other hand, the learned Additional Government Pleader (Taxes) has produced only invoice and e-Way bill to substantiate their case, but no other documents like Delivery Challan, pertaining to the receipt of the goods from the same dealer,have been produced and therefore impugned order came to be passed. He further submitted that if the Petitioner is aggrieved by the impugned order, they can file an Appeal before the Appellate authority who will deal with the matter in accordance with law.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the respondent and also perused the materials available on record.

9. A perusal of records shows that the Petitioner has filed invoice and the e-Way Bill along with the reply to the show cause notice issued by the Respondent, except these no documents were produced. The aforesaid documents are well within the domain of the Petitioner and

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they can very well manufacture/create the same. No documents pertaining to receipt of the goods from the very same dealer viz., ***Sri Murugan Traders*** like Delivery Challan, Weigh bridge receipt, proof of payment of GST by the supplier have been produced. In the absence of production of the same, impugned order came to be passed. Thus, it cannot be said that the impugned order passed is in violation of principles of natural justice. If the Petitioner is so aggrieved by the impugned order, he can very well file an Appeal before the Appellate authority to substantiate their case.

In such view of the matter, this Writ Petition is dismissed, with liberty to file an Appeal before the Appellate authority. No costs. Consequently**,** the connected miscellaneous petitions are also closed.

28.08.2024

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

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