IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26746 of 2022
and
W.M.P.No.25802 of 2022

Balamurugan Steels,
Represented by its Proprietor,
(33BQMPK4320A 1ZF)
82E/13W, Chinnappampathy Road,
Elampilai,
Salem – 637 502. ... Petitioner

Vs.

1.The State Tax Officer – 1 (Intelligence),
Adjudication Cell,
No.4, Integrated CT Building,
Bharathiar Salai, Fort Round Road,
Vellore – 632 001.

2.The State Tax Officer (Intelligence),
Special Roving Squad, Thiruvannamalai,
No.4, Integrated CT Building,
Bharathiar Salai,
Fort Round Road,
Vellore – 632 001.

3.The Joint Commissioner (Intelligence),

No.4, Integrated CT Building,
Bharathiar Salai, Fort Round Road,
Vellore – 632 001.

4.The Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai – 600 005. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent herein in Order GDN.No.372/2022-23 dated 18.07.2022 and quashing the same as illegal, direct the 4th respondent to deploy a transparent mechanism to acknowledge the submissions made by the taxpayer with respect to proceedings under Section 129 of the TNGST Act, 2017 and consequently direct the 1st respondent to refund the amount of Rs.3,54,126/- collected in the above order with costs.

For Petitioner : No Appearance

For Respondents : Ms.Amirtha Poonkodi Dinakaran
Government Advocate

ORDER

There is no representation on behalf of the petitioner.

2. In this writ petition, the petitioner has challenged the impugned order dated 18.07.2022 passed in Form GST MOV-09 under Section 129(3) of the TNGST Act, 2017 imposing a penalty of Rs.3,54,126/- being 200% of the tax payable on Item No.3 in Invoice No.109 dated 14.07.2022. The petitioner appears to be engaged in manufacture of roofing sheets and had raised the above said invoice in response to purchase order placed by the buyer. It appears that at the time of inspection, Item No.3 in the above table was not available in the vehicle carrying the goods for which the petitioner had also generated e-way bill.

3. Under these circumstances, the vehicle was seized and detained and thereafter the statement of the driver was recorded in Form GST MOV – I on 15.07.2022 followed by a notice in Form GST MOV-07 dated 15.07.2022. On the same day, Form GST MOV-02 and Form GST MOV-06 were also generated. The petitioner responded to the notice in Form GST-07 dated 15.07.2022 on 18.07.2022 admitting the mistake committed in the documentation and admittedly generated a fresh e-way bill by cancelling the e-way bill generated for three items.

4. It is the case of the petitioner that the goods were to move to the customer in the mid night on 14.07.2022 to Chennai from Salem. Since the payments of the 3rd mentioned item was not made available, the 3rd mentioned item was not to be supplied and therefore was not loaded on the vehicle and the vehicle left only with other two items.

5. The learned Government Advocate for the respondents submitted that there is no error in the impugned order and that the petitioner has an alternate remedy before the Appellate Commissioner under Section 107 of the TNGST Act, 2017.

6. I have considered the arguments advanced by the learned Government Advocate for the respondents.

7. It appears to be an irregularity committed by the petitioner in not having the invoice and the e-way bill amended to correspond with the goods that were loaded on the vehicle. Whether the payments were received for the other two items or not is also not clear.

8. Be that as it may, it was for the petitioner to produce all the records to substantiate the case before the respondents. Therefore, the impugned order cannot be found fault with.

9. Therefore, this Writ Petition is liable to be dismissed. However, liberty can be given to the petitioner to file a Statutory Appeal before the Appellate Authority under Section 107 of the TNGST Act, 2017. Therefore, while dismissing this Writ Petition, liberty is granted to the petitioner to file a Statutory Appeal within a period of 30 days from the date of receipt of a copy of this order.

10. This Writ Petition stands dismissed with the above liberty. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

18.11.2024

Index:Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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Note: Registry is directed to return the original, if the petitioner desires.

To

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C.SARAVANAN, J.

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