IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.26001 of 2024 &
W.M.P.No.28406 of 2024

Claritrics India Private Limited,
Rep. by Director,
Mr.Ramachandran Swaminathan,
46/50, Indira Nagar Main Road,
Valasaravakkam,
Chennai - 600 087. ... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Ramapuram Assessment Circle,
1st Floor, Palaniappa Building,
No.10, Greams Road, Chennai - 600 006.

2.The Deputy Commissioner (ST),
GST Appeal Chennai - II,
3rd Floor, CT Annexe Building No.1,
Greams Road, Chennai - 600 006. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the order vide RFD-06 bearing Reference No.ZD330723091661D, dated 21.07.2023 passed by the Assistant Commissioner (ST), Ramapuram Assessment Circle, the first respondent herein, to quash the same.

For Petitioner : Mr.G.Shiva Kumar

For Respondents : Ms.Amirta Poonkodi Dinakaran
Government Advocate (Taxes)

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) appearing for the respondents.

2. This writ petition has been filed to quash the order dated 21.07.2023 passed by the first respondent.

3. The learned counsel for the petitioner submits that the petitioner filed a refund application on 13.04.2023, seeking a refund for IGST paid from February 2019 to July 2022. On 18.05.2023, the first respondent issued a Show-Cause Notice (FORM GST RFD-08), stating that the *"FIRC details uploaded was not in openable format'*. On the next day, petitioner filed its reply on 19.05.2023, uploading a rectified version of the FIRC details. Despite this, on 06.06.2023, the first respondent issued a second Show-Cause Notice, alleging a "Wrong ITC Claim" and mentioning that "*Input Tax Credit accumulated from the year 2019, related to capital expenditure, had been used for payment towards the invoice raised for the month of June 2022"*. Consequently, on 21.07.2023, the first respondent passed an impugned order (FORM GST RFD-06), rejecting the petitioner's refund claim stating that the petitioner did not respond to show-cause notice dated 18.05.2023 and provide FIRC details. The learned counsel would further contend that the

impugned order was passed in violation of natural justice, as it did not take into account the petitioner's reply dated 19.05.2023 and hence, the learned counsel prays that the impugned order be set aside.

4. On the other hand, learned Government Advocate (Taxes) appearing for the respondents made her submissions supporting the order impugned herein.

5. It is undisputed that the petitioner made an export of services and paid integrated taxes, subsequently claiming a refund on 13.04.2023 within the timeframe specified in Section 54 of the Act. In response, the first respondent issued a show cause notice dated 18.05.2023, stating that the FIRC details uploaded were in a non-openable format. The petitioner promptly addressed this issue by filing a rectified version of the FIRC details on 19.05.2023, i.e., on the next day itself. However, on 06.06.2023, the first respondent issued a second show cause notice without addressing the petitioner's response submitted on 19.05.2023. This notice merely mentioned that *"wrong ITC claim'* along with Remarks: *The Input Tax Credit which has been accumulated from the year 2019 and relating to Capital expenditure has been utilized for payment towards the invoice raised for the month of June 2022'*. Consequently, the first respondent passed the impugned order dated

21.07.2023, rejecting the petitioner’s claim for a refund, on the grounds that as if the petitioner did not respond to the show cause notice dated 18.05.2023 or provide FIRC details. However, the petitioner had indeed replied to the show cause notice dated 18.05.2023, submitting the required FIRC details on 19.05.2023. Therefore, the remarks in the order, which claims that the petitioner did not respond to the show cause notice or provide FIRC details, reflects a total non-application of mind on the part of the first respondent. Hence, the matter is remanded to the first respondent, who shall consider the reply filed by the petitioner on 19.05.2023 and, after issuing a clear 14-days notice specifying a date of personal hearing, pass appropriate orders on merits and in accordance with law, as expeditiously as possible.

6. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petition is closed.

04.09.2024

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

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To

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KRISHNAN RAMASAMY.J.,
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