IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.27529 of 2024
& W.M.P.Nos.30044 & 30045 of 2024

Tvl.Aro Granite Industries Limited,
Represented by its Authorized Representative, C.Srinivasan,
SYNO.95, 107, Koneripalli Village,
Shollagiri, Hosur 635 117

... Petitioner

Vs.

The Assistant Commissioner (ST)(FAC),
Hosur North II Circle

... 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 of the respondent's order dated 07.05.2024 in GSTIN: 33AAACA2360G1ZA/2021-22 and to quash the same.

For Petitioner	:	Mr.Adithya Reddy
For Respondent	:	Mr.C.Harsha Raj, Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 07.05.2024 passed by the respondent.

2. Mr.C.Harsha Raj, learned Additional Government Pleader, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, the respondent had issued a show cause notice dated 24.01.2024, for which a detailed reply was filed by the petitioner on 24.02.2024. However, in the impugned order dated 07.05.2024, the respondent had simply recorded that the said reply was not acceptable without any proper finding or explanation with regard to the rejection of reply filed by the petitioner. Hence, he would contend that the impugned order was passed in violation of principles of natural justice and hence, requests this Court to setting aside the said impugned order.

4. On the other hand, the learned Additional Government Pleader

appearing for the respondent would submit that this case is pertaining to the non-existence of a supplier, for which the petitioner was supposed to produce the documents, with respect to movement of goods, lorry receipt and remittance of tax by the said supplier, to substantiate their case. However, no such material evidences were produced by the petitioner and hence, in the absence of said material evidences, the respondent had arrived at the conclusion that the petitioner had transaction with a non-existing entity and rightly rejected the reply filed by the petitioner. Therefore, he requests this Court to dismiss the present petition.

5. Further, he would submit that if the petitioner is aggrieved over the impugned assessment order, he can very well avail the alternate remedy available to him by way of filing the appeal.

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

7. In the case on hand, the respondent had issued a show cause

notice dated 24.01.2024, alleging that the petitioner had transaction with a non-existing entity. Upon receipt of the said show cause notice, a reply was filed by the petitioner on 24.02.2024. However, according to the petitioner, the said reply was not properly considered by the respondent while passing the impugned order dated 07.05.2024.

8. As contended by the learned Additional Government Pleader, the petitioner is supposed to have produced the vital documents, viz., lorry receipt, invoices for the payments made to the supplier, who was alleged as non-existing entity and the Form GSTR-3B filed by the said supplier. However, the said documents were not at all produced by the petitioner to prove the genuinity of the transaction between the petitioner and the said supplier. Hence, in the absence of said vital documents, the respondent had rightly arrived at a conclusion that the reply filed by the petitioner is not acceptable. In such case, this Court is of the view that there is no merits in the present petition and hence, the same is liable to be dismissed.

9. Accordingly, this writ petition is dismissed. While dismissing this petition, this Court grants liberty to the petitioner to file an appeal before the concerned Appellate Authority within a period of 30 days from the date of receipt of copy of this order. In such case, the Appellate Authority shall consider the said appeal filed by the petitioner on its own merits and in accordance with law, by providing sufficient opportunity to the petitioner, without pressing for limitation. No costs. Consequently, the connected miscellaneous petitions are also closed.

24.09.2024

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

To

The Assistant Commissioner (ST)(FAC),
Hosur North II Circle

KRISHNAN RAMASAMY.J.,

nsa

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