IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.09.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.27845 of 2024
and
W.M.P.Nos.30356 & 30357 of 2024

Jai Maruthi Industries,
Represented by its Sole Proprietor Mrs.Sowthamini,
No.64, Raghava Nagar,
3rd Street, Madipakkam, Kancheepuram,
Tamil Nadu 600 091. ...Petitioner

Vs.

&

The Assistant Commissioner,
Madipakkam Circle, Tambaram Zone,
Chengalpattu Division,
Door No.2/186, Plot No.26-D,
1st Floor, Bhel Nagar, 4th Main Road,
Medavakkam,
Chennai 600 100. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records in the impugned order rejecting the claim for refund in FORM GST RFD-06 bearing No. ZD330124029619I dated 06.01.2024 on the file of the Respondent relating to the tax period April, 2022 to March, 2023 and quash the same and further direct the Respondent to issue refund for the period from April, 2022 to March, 2023.

For Petitioner : Mr.I.Dinesh

For Respondent : Ms.Amirtapoonkodi Dinakaran
Government Advocate (Taxes)

ORDER

Challenging the impugned order, dated 06.01.2024 passed by the respondent, the petitioner has filed the present Writ Petition.

2. Ms.Amirtapoonkodi Dinakaran, learned Government Advocate (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 submitted that the petitioner is engaged in the business of manufacturing wooden pallets, wooden boxes and wooden crade. After obtaining the GST registration in GST REG-06 dated 24.07.2018, the petitioner had been filing the GST returns promptly. The petitioner filed a refund application on 18.08.2023 in Form GST RFD-01 before the respondent, seeking claim for Refund of Inverted Duty Structure (IDS)

along with requisite documents viz., statement of invoices, certificate from the Chartered Accountant as contemplated under section 54(3) of TNGST Act, 2017, GSTR-2A for the period April 2022 to March 2023 etc. However, the said application was rejected by the respondent, on the sole ground that the petitioner has not uploaded the detailed worksheet viz., the Abstract for calculation arriving the IDS turnover. He would further submit that detailed worksheet viz., the Abstract for calculation arriving the IDS turnover is stated at page no.14 in para no.16 of the affidavit in support of the writ petition and the same can be verified by the Assessing Authority and thereafter proceed to pass an order to refund the claim. Hence the petitioner prayed for appropriate orders from this Court to remand the matter to the respondent for fresh consideration.

5. Ms.Amirtapoonkodi Dinakaran, learned Government Advocate (Taxes) appearing for the respondent submitted that, if the petitioner is aggrieved by the impugned order, an alternative remedy is available before the Appellate Authority by way of filing an appeal. Since the petitioner has failed to avail the alternate remedy, the present Writ Petition, challenging the impugned order, is not maintainable. Hence, she prayed for dismissal of the present Writ Petition.

6. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Taxes) for respondent and perused the materials available on record.

7. Considering the submissions made by the learned counsel on either sides, it appears that the documents sought for by the respondent has already been submitted by the petitioner in Form GST RFD-09 on 02.01.2024. The respondent has to scrutinize all the documents and ought to have granted refund claim. The rejection of the claim made by the petitioner on the ground that the petitioner has failed to upload the detailed worksheet i.e., the Abstract for calculation arriving the IDS Turnover, which is unsustainable. In view of the fact that the petitioner had already submitted the required documents. The passing of the present impugned order without giving any personal hearing opportunity to the petitioner is violating the principles of natural justice.

8. In the light of the above, and in the given facts and circumstances of the case, this Court feels that this matter required to be remanded to the respondent for fresh consideration by providing personal hearing to the petitioner and thereafter pass orders on merits and in accordance with law.

9. Accordingly, this Court passes the following orders:

(i) The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration subject to the payment of Rs.1,000/- to the credit of **Cancer Institute (Regional Cancer Centre), Adyar, Chennai – 600 020** for delay in approaching this Court, within a period of one week from the date of receipt of a copy of this order.

(ii) Upon the payment of the aforesaid amount, the petitioner is directed to file the Abstract for calculation arriving the IDS turnover or any additional reply, if any, within a period of two weeks thereafter.

(iii) On receipt of such additional reply/Abstract for calculation arriving the IDS turnover filed by the petitioner, the respondent shall consider the same and issue a 14 days clear notice to the petitioner by fixing the date for personal hearing and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

10. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

23.09.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
The Assistant Commissioner,
Madipakkam Circle, Tambaram Zone,
Chengalpattu Division,
Door No.2/186, Plot No.26-D,
1st Floor, Bhel Nagar, 4th Main Road,
Medavakkam,
Chennai 600 100.

<u>Krishnan Ramasamy,J.,</u>
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