WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.28564 of 2024
W.M.P.Nos.31132 & 31133 of 2024

M/s Gomaathi Cotspin(covai) Pvt., Ltd.,
Rep By its Director
Sri.V.P.Jayavel
S.No.517, 517/3 No.5 Bilichi Village
Mathampalayam, Press Colony
Coimbatore-641 019. ...Petitioner

Vs

The Deputy State Tax Officer (ST)
Periyanaickenpalayam Circle
Coimbatore- 18. ...Respondent

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 herein in GSTIN.33AACCG5253A1Z8/2018-19 and quash the proceeding dated 30-04-2024.

For Petitioner : Mr.Raveendran B

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (Taxes)

https://www.mhc.tn.gov.in/judis

WEB COPY

ORDER

This writ petition has been filed by the petitioner challenging the impugned order in GSTIN.33AACCG5253A1Z8/2018-19 dated 30.04.2024.

2.The learned counsel for the petitioner would submit that he received a notice from the respondent in the form of GST DRC 01 dated 28.12.2023 for the assessment year 2018-2019, wherein, the respondent alleged that the petitioner had under declared its output tax, and claimed excess ITC. According to the petitioner as regards under declaration of output tax, the respondent alleged that reconciliation of GSTR 01 and GSTR 09 shows discrepancy, in the sense that GSTR 01 shows higher amount than GSTR 09 and reconciliation of E-way bill turnover is higher that the GSTR 01 turnover. As regards the excess claim of ITC is concerned, the respondent alleged that the seller of the petitioner did not make payment and filed returns and hence on these two aspects the respondent proposed to proceed against the petitioner.

https://www.mhc.tn.gov.in/judis

WEB COPY

3.The learned counsel for the petitioner would submit that the petitioner has produced all relevant documents along with reply and the respondent after verification of the same, dropped the entire proceedings in respect of first defect that is under declaration of output, however, as regards the issue of excess ITC, though the petitioner submitted a reply, however, without considering the same, the respondent passed the impugned order dated 30.04.2024 stating that the petitioner sought for extension of time and thereby he accepted the defect. Hence, the learned counsel sought for setting aside the impugned order.

4.The learned Additional Government Pleader (Tax) appearing for the respondent would submit that the respondent in fact considered the reply of the petitioner and dropped some issues also and in respect of ITC, since the petitioner has not come forward to substantiate his claim towards ITC and sought for extension of time, the respondent has rightly passed the impugned order which requires no interference. He would further submit that as against the impugned order passed by the

https://www.mhc.tn.gov.in/judis

WEB COPY

respondent, the petitioner has appeal remedy before the appellate authority. However, without exhausting such appeal remedy, the petitioner has come forward with the present Writ Petition.

5.Considering the submission made by the learned counsel for the petitioner and respondent, it appears that respondent has considered the reply of the petitioner and dropped in respect of some issues and in respect of ITC, the respondent has passed the impugned order and it does not mean that the respondent has not applied his mind and passed the impugned order mechanically without considering the reply of the petitioner. However, since, the petitioner is having appeal remedy as against the impugned order, this Court feels it appropriate to direct the petitioner to approach the appellate authority. Hence, this Court is not inclined to entertain the Writ Petition.

6.Accordingly, the Writ Petition is dismissed. However, the petitioner is granted liberty to prefer appeal as against the impugned order before the appellate authority subject to payment of Rs.5000/-

https://www.mhc.tn.gov.in/judis

WEB COPY

(Five Thousand Only) to the credit of the Principal Government Naturopathy Medical College and Hospital, Account No.7883022723, IFSC Code: IDIB000M157, within a period of two weeks from the date of receipt of copy of this order. On such appeal being preferred by the petitioner, the appellate authority is directed to entertain the same without insisting upon the aspect of limitation if it is otherwise in order and on production of payment of cost of Rs.5000/- as stated above, within 30 days from the date of payment of cost.

7. Accordingly, the writ petition stands dismissed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

26.09.2024

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

ep

https://www.mhc.tn.gov.in/judis

WEB COPY

https://www.mhc.tn.gov.in/judis

WEB COPY

KRISHNAN RAMASAMY.J.,

ep

To

The Deputy State Tax Officer (ST)
Periyanaickenpalayam Circle
Coimbatore- 18.

W.P.No.28564 of 2024
W.M.P.Nos.31132 & 31133 of 2024

26.09.2024

https://www.mhc.tn.gov.in/judis