IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.31273 of 2024
and
W.M.P.No.33906 of 2024

M/s.VSR Food Products
Rep. by its Partner Sri.M.C.Vijayan,
S.F.No.73/1C2, 74/2,
BRG Madhepalli Village and Post,
Bargur Taluk, Krishnagiri 635 104. ... Petitioner

Vs.

1.The Deputy State Tax Officer -I,
Krishnagiri -11.

2.The Assistant Commissioner (ST),
Krishnagiri -II Circle,
Krishnagiri. ..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari to call for the records of the first respondent in his proceeding in GSTIN:33AAQFV9515M1ZF/2018-19 and quash the proceeding dated 25.12.2023 respectively passed therein.

For Petitioner : Mr.B.Raveendran

For Respondents : Ms.Amrita Poonkodi Dinakaran,
Government Advocate.

ORDER

The writ petition is filed challenging the impugned orders dated 25.12.2023 on the premise that the same has been made without taking into account the reply and supporting documents filed by the petitioner and also a non-speaking order inasmuch as it does not assign any reason for rejecting the reply.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a dealer in food products and is a registered dealer under the Goods and Services Act, 2017. During the relevant period viz., 2018-19, the petitioner filed its return and paid the appropriate taxes. However, during the scrutiny of the petitioner's return, it was noticed that the sales turnover declared is less than the purchases turnover.

3. It is submitted by the learned counsel for the petitioner that an intimation in DRC-01A was issued on 06.10.2023, followed by a notice in DRC-01 on 23.11.2023 and a personal hearing was offered on 22.12.2023. The petitioner submitted its objection on 19.10.2023 along with supportive and relevant

documentary evidence. However, the impugned order came to be passed on the basis that the petitioner had neither filed any reply / objection nor attended the personal hearing.

4. It is submitted by the learned counsel for the petitioner that the impugned order does not deal with any of the objections raised nor does it consider the documents submitted in support thereof, which would indicate that there is non-application of mind to the material on record.

5. The learned counsel for the respondent would submit that this is an appealable order and therefore, the writ petition ought not to be entertained under Article 226 of the Constitution of India.

6. This Court is conscious of the fact that writ petitions under Article 226 of the Constitution of India would not be entertained normally if statutory remedy is not availed. However, existence of alternate remedy is not an embargo or an absolute bar to exercise power under Article 226 of the Constitution of India but a self-imposed restriction and the following circumstances viz., violation of principles of natural justice or lack of jurisdiction or error apparent on the face of

the record are some of the exceptions carved out to the rule of alternate remedy for exercise of discretion under Article 226 of the Constitution of India.

7. In view thereof, the impugned order dated 25.12.2023 is set aside. The petitioner, in addition to the reply already filed, may submit its objections within a period of two weeks from the date of receipt of a copy of this order. If any representation / reply that may be filed within the stipulated time period i.e., two weeks from the date of receipt of a copy of this order, the same shall be considered by the respondents and orders shall be passed in accordance with law, taking into account and considering the reply dated 19.10.2023 along with documents filed in support thereof, after affording the petitioner a reasonable opportunity of hearing.

8. Accordingly, the writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

12.11.2024

Speaking (or) Non Speaking Order
Neutral Citation: Yes/No
shk

To

1.The Deputy State Tax Officer -I,
Krishnagiri -11.

2.The Assistant Commissioner (ST),
Krishnagiri -II Circle,
Krishnagiri.

MOHAMMED SHAFFIQ, J.

shk

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