IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2024

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P. No.31251 of 2024
and W.M.P. Nos.33890 and 33891 of 2024

M/s. Senthil Kumaran Traders
Rep. by its Proprietor,
Sri. S.A. Senthil Kumar,
No.524/1, Kanjappalli Post,
Uthupalayam, Annur,
Coimbatore - 641 653. ... Petitioner

-vs-

1. The Deputy State Tax Officer (ST),
Avinashi Assessment Circle,
Avinashi.

2. The Assistant Commissioner (ST),
Avinashi Assessment Circle,
Avinashi. ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of CERTIORARIFIED MANDAMUS, to call for the records of the first respondent in GSTIN: 33CXGPS6966J1ZR/2021-22 and quash the proceeding dated 09.01.2024 passed therein and further to direct the first respondent to consider the representation dated 15.03.2024 afresh after affording personal hearing to the petitioner.

For Petitioner : Mr. B. Raveendran

For RR 1 & 2 : Ms. Amrita Dinakaran

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ORDER

The present writ petition is filed challenging the impugned order dated 09.01.2024 on the limited ground that the impugned order has been made on a gross non-application of mind to the objections filed by the petitioner.

2. During the assessment year 2021-2022, the petitioner had registered under GST Act and filed his return for the year 2021-2022 and claims that he had also paid appropriate taxes. The challenge to the impugned order is on the premise that the petitioner's credit has been blocked on the basis that the petitioner have availed credit fraudulently, in respect of alleged supplies made by M/s. Balaji Traders without involving any movement/ goods. In other words, it is submitted that the impugned order proceeds on the premise that the transactions are fictitious. The petitioner had submitted his reply and he had also submitted the tax invoice, E-way bill, payment of market committee cess and other documents, to show that the

transactions were genuine and not fictitious.

3. It may be relevant to note that this is the 2nd round of litigation. Earlier, the petitioner filed a writ petition in W.P. No.26130 of 2023 dated 07.09.2023, wherein the proceeding dated 27.03.2023 invoking Rule 86 A (i) (a) of TNGST Rules was challenged. The above writ petition was disposed of by directing the petitioner to file a fresh copy of the representation dated 05.05.2023 to the first respondent. The present proceedings in the impugned order is made pursuant to the above direction of this Court. The impugned order proceeds on the basis that transactions are fictitious/ bogus, in view of the fact that the petitioner had not filed any supporting documents such as lorry receipts, weighbridges, E-way bills etc., to show involvement of goods. It is the submission of the petitioner that the impugned order does not even make a reference to the documents, which has been filed in support of their claim of input Tax credit, such as E-way bill, Tax Invoice, payment of market cess, weighbridge receipt, which would show that the transactions are real and genuine.

4. It is submitted by the learned counsel for the petitioner that as a

matter of fact lorry receipts and weighbridges were in fact produced and it is also brought to the notice of this Court that the lorry receipts and weighbridges are kept in the typed set filed in support of this writ petition.

5. To the contrary, the learned counsel for the respondents would submit that the order is appealable and therefore, this writ petition is not to be entertained.

6. Having heard on both sides, this Court finds that there is some merits in the submission of the petitioner inasmuch as the impugned order does not even make a reference to the documents that have been filed in the form of E-way bill, Tax invoices, etc., while rejecting the petitioner's claim of entitlement to Input Tax Credit. Further more, in this matter the petitioner is also in possession of lorry receipts, weighbridges, etc. In the circumstances, this Court is of the view that the petitioner may be granted one final opportunity to produce all the related documents.

7. The impugned order is thus set aside and the petitioner is

granted liberty to submit objections, if any along with the relevant documentary evidence within a period of two weeks from the date of receipt of copy of this order. If such reply or documents are produced within the stipulated period i.e., two weeks from the date of receipt of copy of this order, order would be passed afresh, after considering the reply or document and after affording the petitioner a reasonable opportunity therein. If the reply or document is not filed within the stipulated period i.e., within the period of two weeks from the date of receipt of copy of this order, the impugned order shall stand restored.

8. Accordingly, this writ petition is disposed of. Consequently, connected writ miscellaneous petitions stand closed. There shall be no order as to cost.

04.11.2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
stn

MOHAMMED SHAFFIQ, J.

stn

To

1. The Deputy State Tax Officer (ST),
   Avinashi Assessment Circle,
   Avinashi.

2. The Assistant Commissioner (ST),
   Avinashi Assessment Circle,
   Avinashi.

W.P. No.31251 of 2024

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