IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.34476, 34480, 34483 of 2024
and
W.M.P.Nos.37365, 37367, 37371, 37372, 37375 & 37376 of 2024

M/s.V.R.S.Traders
represented by its proprietor Shri.V.Rajasingh,
No.115 & 116, Thiruvalluvar Street,
Vetrilai Thottam, Sennerkuppam,
Poonamallee, Chennai - 600 056.

...Petitioner in all W.P's

Vs.

1.Deputy Commissioner (ST),
GST-Appeals, Chennai-II,
PAPJM ANNEXE Building,
3rd Floor, Greams Road,
Chennai - 600 006.

2.The Assistant Commissioner (ST),
Poonamallee Assessment Circle,
Varadharajapuram, Chennai - 600 123.

... Respondents in W.P's

Prayer in W.P.No.34476 of 2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records relating to passing of the detailed impugned order in Appeal No & Year : AP/GST/374/2022 dated 20.03.2024 along with the summary of the order in Form GST APL 04 bearing Reference No.ZD330824277550A dated 29.08.2024 passed by the first respondent and quash the same.

<u>Prayer in W.P.No.34480 of 2024:</u> This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records relating to passing of the detailed impugned order in Appeal No & Year : AP/GST/373/2022 dated 20.03.2024 along with the summary of the order in Form GST APL 04 bearing Reference No.ZD3308242614279 dated 28.08.2024 passed by the first respondent and quash the same.

<u>Prayer in W.P.No.34483 of 2024:</u> This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records relating to passing of the detailed impugned order in Appeal No & Year : AP/GST/380/2022 dated 20.03.2024 along with the summary of the order in Form GST APL 04 bearing Reference No.ZD3308242618841 dated 28.08.2024 passed by the first respondent and quash the same.

Appearance in all W.P's

For Petitioner : Mr.G.Natarajan

For Respondents : Mr.TNC Kaushik
Additional Government Pleader

<u>COMMON ORDER</u>

Since the issue involved and the relief sought in all these Writ Petitions are identical in nature, the same were heard together and disposed of vide this common order.

2. Mr.TNC Kaushik, 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.

3. These Writ Petitions are filed challenging the orders of the Appellate Authority dated 20.03.2024, on the limited ground that the opportunity has been provided by the Appellate Authority is inadequate moreso, inasmuch as the petitioner request for time to furnish supporting documents and to correlate the invoices and weighment slips were not considered.

4. The petitioner is engaged in the business of trading of Iron and steel scraps and is registered under GST Act, 2017. During the relevant period, the petitioner has filed its returns and paid the appropriate taxes. There was an investigation by the Commissioner of Tax Department, during the course of said inspection, it was found that the petitioner had availed Input Tax Credit (ITC) in respect of bogus transaction as the alleged supplies were not supported by movement of goods. The petitioner had responded for the same. However, the impugned orders came to be passed, confirming the proposals by rejecting the petitioner's claim of ITC. Aggrieved by the said orders, the petitioner preferred an appeal before the Deputy Commissioner (ST) (GST-Appeals) in Appeal No.AP/GST/374/2022 .

5. The learned counsel for the petitioner would submit that even before approaching the Appellate Authority, while filing the return, the petitioner furnished the following documents viz., purchase copy, e-way bill and bank statement, which would indicate that the assumptions of the transactions as fictitious is factually incorrect. However, the Appellate Authority, during the course of hearing, had directed the petitioner to correlate the invoice with the weighment slips. The petitioner sought for time. However, the Appellate Authority confirmed the order of adjudication holding that despite providing time to file documentary evidence, the same was not submitted by the petitioner.

6. The learned counsel for the petitioner would submit that the Tribunal is yet to be established or constituted and the petitioner has no other remedy except to approach this Court invoking writ jurisdiction. He would also submitted that the material evidence and the statement correlating the invoice with the weighment slips as was required, will be produced, if opportunity is granted to the petitioner.

7. Mr.TNC. Kaushik, learned Additional Government Pleader appearing for the respondents submitted that, an appeal would lie before the

Tribunal, against the order of first Appellate Authority. However, the Tribunal is yet to be constituted, right of appeal is subject to the statutory requirement of payment of 10% of the balance tax amount, he would submit, the case of the petitioner would be re-examined, if the petitioner pays 10% of the balance taxes. In view of the specific pleading that relevant documents are available with the petitioner, which was agreed to by the learned counsel for the petitioner.

8. In view thereof, the impugned orders dated 20.03.2024 is set-aside and the matter is remanded back to the Appellate Authority for re-consideration, subject to the condition that the petitioner deposits 10% of the balance tax amount, within a period of four weeks from the date of receipt of a copy of this order.

9. with the above directions, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

22.11.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
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MOHAMMED SHAFFIQ, J.
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