IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.34900 of 2024
and
WMP Nos.37837, 37838 of 2024

Tvl Cuboid Infrastructure
Rep.by Partner P.GokulaKrishna : Petitioner

versus

The Assistant Commissioner (ST)
Velacherry Assessment Circle,
No.571, Integrated Building for Commercial Taxes &
Registration Department (South Tower)
Room No.222, 2nd Floor, Anna Salai, Nandanam,
Chennai 600 035. : Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorari calling for the records on the file of the respondent and quash the impugned order in TIN.33080986198/ 2014-15 dated 28.03.2024 passed under TNGST Act 2017 for the AY 2014-15 as illegal and not in accordance with law

For Petitioner : Mr.Raghavrajeev Menon

For Respondent :Mr.V.Prashanth Kiran,
Government Advocate

ORDER

The present writ petition is filed challenging the impugned proceedings date 28.03.2024 on the premise that the impugned order rejecting the petitioner's claim that the works contract executed to units in SEZ sale would qualify as zero-rated sale within the meaning of Section 18 of TN VAT Act is contrary to the decision of a Division Bench of this Court in WA.No.703 of 2015 dated 28.02.2023.

2. It is submitted by the learned counsel for the petitioner that the above order of the Division Bench of this Court was placed before the Assessing Authority/respondent, however the impugned order has been passed without even examining the above order and would thus submit that the impugned order suffers from non-application of mind to relevant material.

3. It is also submitted that the opportunity that was granted by way of a personal hearing was illusory and not real inasmuch the notice fixing the personal hearing did not even indicate the time or place of personal hearing.

4. Learned counsel for the petitioner would request the assessing authority may be directed to reconsider the issue taking into account the order passed by the Division Bench of this Court cited supra viz. W.A.No. 703 of 2015 dated 28.02.2023.

5. Learned counsel for the respondent would submit that the petitioner ought to have submitted documents in support of their claim and having failed one cannot find fault nor does the order warrant interference. The learned counsel for the petitioner submits that one final opportunity may be granted to the petitioner to produce documents in support of their claim of zero-rated sale.

6. Learned counsel for the respondent would submit that the petitioner may be directed to pay 25% of the balance taxes, which was readily agreed to by the learned counsel for the petitioner.

7. By consent of both sides, the impugned order dated 28.03.2024 is set aside. The petitioner shall deposit 25% of the balance taxes in terms of the impugned order dated 28.03.2024 within a period of four weeks from the date of receipt of a copy of this order. The respondent authority is directed to consider the matter taking into account the order of this Court in WA.No.703 of 2015

dated 28.02.2023, after affording the petitioner a reasonable opportunity. If for any reason the above condition is not complied with, the impugned order shall stand restored.

8. Accordingly, the writ petition stands disposed of. There will be no order as to costs. Consequently, connect miscellaneous petitions are closed.

05.12.2024

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

To
The Assistant Commissioner (ST)
Velacherry Assessment Circle,
No.571, Integrated Building for Commercial Taxes &
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Room No.222, 2nd Floor, Anna Salai, Nandanam,
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MOHAMMED SHAFFIQ, J.

mrn

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