IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35666 of 2024
and
W.M.P.Nos.38521 and 38522 of 2024

M/s.Athithan Furnitures and Electronics,
Represented by its Managing Partner,
Mr.Akilan,
No.131/114, Na,
G.N.T. Road, Redhills,
Chennai 600 052.

... Petitioner

Vs.

The Assistant Commissioner (ST)(FAC),
Cholavaram Assessment Circle,
Integrated C.T. Building,
Chennai. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for records on the files of the respondent and to quash the impugned assessment order dated 15.12.2023 passed by the respondent and its consequential rectification order dated 07.06.2024 bearing GSTIN/33AAKFA7580P1ZV/2017-18 passed by the respondent.

For Petitioner : Mr.J.Ashish

For Respondents : Mr.G.Nanmaran
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order dated 15.12.2023 on the limited ground that the impugned order proceeds on the basis that the petitioner had not filed any reply in response to the show cause notice, when in fact the petitioner vide reply dated 05.09.2023 filed its response to the show cause notice dated 15.11.2022. It is thus submitted by the learned counsel for the petitioner that impugned order suffers from non application of mind and thus stands vitiated.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of sales / supply of furniture and household products and is registered under the GST Act. During the relevant period of 2017-18, the petitioner has filed the returns and paid appropriate taxes. While so, a comparison of the Input Tax availed through GSTR 3B and GSTR 2A revealed that the petitioner had claimed excess Input Tax to an extent of Rs.8,44,000/- .

3. It is submitted by the learned counsel for the petitioner that an intimation in Form DRC01A was issued on 05.08.2022 followed by a show cause notice in DRC01 on 15.11.2022. In response to the notice dated 15.11.2022, the petitioner had filed its reply dated 05.09.2023, wherein it has been explained as to its entitlement to Input Tax Credit to the extent of

Rs.50,35,412/- which has erroneously been restricted to Rs.41,66,000/-. However, the impugned order has been passed on the premise that the petitioner has neither filed any reply to the notice issued nor appeared for personal hearing. As a matter of fact, the petitioner had also enclosed the acknowledgment in Form DRC06 for submitting its reply.

4. It is further submitted by the learned counsel for the petitioner that the petitioner had filed a rectification petition on the premise that the impugned order dated 15.12.2023 has been passed without considering their objections. The rectification petition was disposed of by enhancing the ineligible credit from Rs.8,44,000/- to Rs.8,72,076/- without putting the petitioner on notice.

5. On the same being pointed out, the learned counsel for the respondent would submit that they would redo the assessment taking into account the reply, dated 05.09.2023 and the documents filed along with the said reply.

6. In view thereof the impugned order dated 15.12.2023 is set aside. The respondent shall redo the assessment after considering the reply dated

05.09.2023 along with documents submitted by the petitioner and after affording the petitioner a reasonable opportunity of hearing within a period of 8 weeks from the date of receipt of a copy of this order.

7. Accordingly, the writ petition stands disposed of. Consequently, connected miscellaneous petitions are closed.

22.11.2024

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

To:

The Assistant Commissioner (ST)(FAC),
Cholavaram Assessment Circle,
Integrated C.T. Building,
Chennai.

MOHAMMED SHAFFIQ, J.

spp

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