IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35526 of 2024

Tvl.Ensons Trading LLP,
rep. By its Partner Ashok Khubchandani : Petitioner

versus

The Assistant Commissioner ST (FAC)
Chintadripet Assessment Circle,
C.T. Annexe Building, First Floor,
No.1, Greams Road, Chennai 6 : Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the respondent to consider the rectification application filed by the petitioner under Section 161 of the GST Act on 17.09.2024 for the assessment year 2017-2018 as per law.

For Petitioner : Mr.A.Thiyagarajan,
Senior Counsel,
for Mr.S.Ramesh Kumar

For Respondent :Mr.G.Nanmaran,
Special Government Pleader

ORDER

The present writ petition is filed seeking for a mandamus to direct the respondent to consider the rectification application dated 17.09.2024 under Section 161 of the GST Act on 17.09.2024 for the assessment year 2017-2018 .

2. The petitioner is engaged in the business of electronic goods and is registered under the Tamil Nadu Goods and Services Act, 2017. During the relevant period of 2017-18, the petitioner filed its returns and paid the appropriate taxes. However, during the scrutiny of the petitioner's monthly return, it was noticed that there was short payment of taxes. Pursuant thereto, after the issuance of notice and grant of an opportunity of hearing, an order dated 29.12.2023 came to be passed, levying a tax of Rs.4,30,995/- under the CGST and SGST Act respectively along with consequential interest and liability.

3. The learned counsel would submit that impugned order suffers from an error apparent inasmuch as it failed to take note of the fact that the petitioner had already discharged taxes on all supplies and thus any levy of tax would constitute duplication of levy/demand. Hence, the petitioner had filed a rectification petition and the same is still pending. While so, the respondent authority have initiated certain recovery proceedings and issued garnishee notice to one of its bankers, namely HDFC Bank, Mount Road Branch. It is further submitted that the impugned demand notice without disposing of the rectification petition is unjustified.

4. Learned Special Government Pleader appearing for the respondent

would submit that the rectification petition would be disposed of, within a period of four weeks, after affording the petitioner a reasonable opportunity of hearing.

5. In view thereof, the respondent authority is directed to dispose of the rectification petition dated 17.09.2024, within a period of four weeks from the date of receipt of a copy of this order, after affording the petitioner a reasonable opportunity of hearing. Until the rectification petition is disposed of, the recovery proceedings shall be kept in abeyance.

6. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, W.M.P.No.38405 of 2024 is closed.

28.11.2024

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

To

The Assistant Commissioner ST (FAC)
Chintadripet Assessment Circle,
C.T. Annexe Building, First Floor,

No.1, Greams Road, Chennai 6

MOHAMMED SHAFFIQ, J.

mrn

W.P. No.35526 of 2024

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