IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.36560 of 2024
and
W.M.P.Nos.39411, 39412 and 39413 of 2024

M/s.Startime Apparels
Represented by its Managing Partner,
Mr.Eswaramoorthy,
654/2, NA, Veerapandi Post,
Behind Tamilnadu Theatre,
Tiruppur 641 605. ..Petitioner

Vs.

The Assistant Commissioner (ST)
Tiruppur (Rural)-2 Assessment Circle
Tiruppur. ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus calling for the records leading to the issuance of assessment order bearing reference GSTIN:33AAHFS8244F1Z6/2018-19 dated 30.03.2024 by the respondent herein and quash the same and direct the respondent herein to refrain from taking any further proceedings and withdraw recovery notices bearing reference RC.No. 33AAHFS8244F1Z6/2018-19 dated 30.09.2024.

For Petitioner : M/s.S.P.Sri Harini

For Respondent : Ms.Amrita Dinakaran,
Government Advocate.

ORDER

The writ petition is filed challenging the impugned order dated 30.03.2024 on the limited ground that despite the petitioner having filed the detailed objection, the impugned order has been passed without assigning any reasons. In other words, the impugned order which according to the petitioner suffers from vice of being a non-speaking order.

2. The petitioner is engaged in manufacture and supply of textile materials and is registered under the Goods and Services Act, 2017. During the relevant period viz., 2018-19, the petitioner filed its return and paid the appropriate taxes. However, during the scrutiny of the petitioner's return, the following discrepancies were noticed viz.,

i. Excess Claim of Input Tax Credit.

ii.Under Declaration of Output Tax.

2.1. Pursuant thereto, a notice in DRC-01 was issued on 28.12.2023. Personal hearings were offered on 29.01.2024 and 21.02.2024. In response to the Show Cause Notice, the petitioner had filed its reply on 20.01.2024, providing a detailed explanation for the alleged discrepancies.

3. This Court does not propose to set out or deal with the contents of the reply except to state that the reply runs to more than 15 pages. However, the impugned order has confirmed the proposal by merely stating that the tax payer has not uploaded any documents in support of their claim which, according to the petitioner, is contrary to the material on record.

4. It is submitted by the learned counsel for the petitioner that in addition to the detailed reply dated 20.01.2024, which runs to 15 pages, they also furnished FORM Nos.3C and 3D along with the details of the invoices in support of their objections. It is the submission of the learned counsel for the petitioner that the proposal in respect of the alleged discrepancies between GSTR-01 and GSTR-09 was incorrect. That apart, the excess claim of ITC was also unjustified. It was thus submitted by the learned counsel for the petitioner that the impugned order suffers from vice of being non-speaking order inasmuch as it does not deal with any of the objections raised nor does it consider the documents submitted in support thereof.

5. The learned counsel for the respondent would submit that they would consider the reply and pass orders after affording the petitioner a reasonable

opportunity of hearing.

6. In view thereof, the impugned order dated 3003.2024 is set aside. The petitioner shall treat the impugned order of assessment as a Show Cause Notice and shall submit its objections along with supporting documents/material within a period of two (2) weeks from the date of receipt of a copy of this order. If any such objections are filed, the same shall be considered by the respondent and appropriate orders shall be passed in accordance with law after affording the petitioner a reasonable opportunity of hearing. If the objections are not filed within the stipulated period as stated supra, the impugned order of assessment shall stand restored.

7. Accordingly, the writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

11.12.2024

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

To

The Assistant Commissioner (ST)
Tiruppur (Rural)-2 Assessment Circle
Tiruppur.

MOHAMMED SHAFFIQ, J.

shk

W.P.No.36560 of 2024
and
W.M.P.Nos.39411, 39412 and 39413 of 2024

11.12.2024