IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **06.12.2024**

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.36075 of 2024
and W.M.P.Nos.38971 & 38972 of 2024

Finevo Solutions,
Rep. by its Proprietor,
Sankar Saranya,
Plot No.70A, Vasanthapuram Main
Road, Chennai, Kancheepuram,
Tamil Nadu – 600 122. ... Petitioner

Vs.

The Deputy State Tax Officer-II,
Koyambedu Assessment Circle,
Station : No.4/109, 1st Floor,
Bangalore Chennai Highway,
Varadharajapuram, Nazrethpetai,
Chennai – 600 123. … Respondent

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari calling for the records on the files of the respondent herein in GSTIN/33CDXPS8813B1Z6/2021-22 in FORM GST DRC-07 proceedings in order Reference No.ZD331123165108R dated 27.11.2023 and quash the same.

For Petitioner : M/s.K.Siri Chandana

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

O R D E R

This writ petition has been filed challenging the impugned order passed by the respondent bearing Reference No.ZD331123165108R dated 27.11.2023 for the assessment year 2021-22.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a service provider of Financial consultancy services, rental services of other transport vehicles n.e.c. With or without operator etc. The Petitioner in the regular course of its business had purchased inputs from various registered persons inside the State of Tamil Nadu. All such purchases were made by the Petitioner under the cover of tax invoices raised by those registered persons.

2.1. The Petitioner upon receipt of goods made their outward supplies and duly reported the same in their monthly returns in FORM GSTR-3B under Section 39 of the GST Act. Consequently, the Petitioner had availed Input Tax Credit (ITC) on the purchases of vehicles from such registered persons based on the tax invoices raised on them. Thus, there is a due compliance of provisions of Section 16(2) of the TN GST Act. Once the tax invoice raised by the Supplier for the outward supplies and filed by them in their FORM GSTR-1 under Section 37 of the CGST Act and TN GST Act read with Rule 59 of the Central Goods and Service Rules, 2017 (hereinafter referred to as the CGST Rules) and the Tamil Nadu Goods and Service Rules, 2017 (hereinafter referred to as the TN GST Rules), such supplies would auto-populate in the buyer's portal in FORM GSTR-2A.

2.2. The Petitioner states that the Assistant Commissioner, Koyambedu Assessment Circle, had issued a Show Cause Notice in FORM GST DRC-01 dated 17.10.2023 alleging that the ITC availed by the Petitioner based on the invoices raised by their Supplier is an ineligible credit as blocked under Section 17(5). The Petitioner was advised to pay the amount of taxes as ascertained along with interest under Section 50(1) of the GST Acts before 25.10.2023 and also an opportunity of a personal hearing was provided. Subsequently, the proposals as made out in the Show Cause Notice are confirmed in impugned proceedings in Form GST DRC- 07 dated 27.11.2023 for the assessment period 2021-22 along with interest and penalty thereon.

3. Learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of ***M/s.Balakrishnan, Balu Cables vs. O/o. The Assistant Commissioner of GST & Central Excise in W.P.(MD)No.11924 of 2024 dated 10.06.2024***, to submit that this Court has remanded the matter back in similar circumstances subject to payment of 25% of the disputed taxes.

4. It was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Special Government Pleader for the respondent does not have any serious objection.

5. In view thereof, the impugned order dated 27.11.2023 is set aside and the petitioner shall deposit 25% of the disputed tax within a period of four weeks from the date of receipt of a copy of this order. The impugned order shall be treated as show cause notice and the petitioner shall submit its

objections within a period of four weeks from the date of receipt of a copy of this order along with supporting documents/material. If any such objections are filed, the same shall be considered by the respondent and orders shall be passed in accordance with law after affording a reasonable opportunity of hearing to the petitioner. If the above deposit is not paid or objections are not filed within the stipulated period, i.e., four weeks from the date of receipt of a copy of this order, the impugned order shall stand revived.

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

06.12.2024 (vm)

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

To:

The Deputy State Tax Officer-II,
Koyambedu Assessment Circle,
Station : No.4/109, 1st Floor,
Bangalore Chennai Highway,
Varadharajapuram, Nazrethpetai,

Chennai – 600 123.

J.SATHYA NARAYANA PRASAD,J.

vm

W.P.No.36075 of 2024

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