IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **06.12.2024**

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

Writ Petition No.36432 of 2024
and W.M.P.Nos.39299 & 39300 of 2024

M/s.Sai Paper World,
Rep. by its Partner Mr.C.Vasanth,
6/1, Perumal Koil Street,
Razack Garden, Arumbakkam,
Chennai – 600 106. ... Petitioner

Vs.

Assistant Commissioner (ST),
MMDA Colony Assessment Circle,
No.10, 2nd Floor, Palaniyappa Maligai,
Greams Road, Chennai – 600 006. … Respondent

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari calling for the records relating to the impugned order Ref:GSTIN33ACMFS6075R1Z7/2018-19 dated 02.04.2024 along with summary order in Form DRC-07 Ref.No.ZD330424011089R dated 02.04.2024 passed by the respondent and quash the same.

For Petitioner : Mr.G.Natarajan

For Respondent : M/s.Amirta Dinakar,
Government Advocate (Tax)

ORDER

This writ petition has been filed challenging the impugned order passed by the respondent bearing Reference No. ZD330424011089R dated 02.04.2024 for the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that in October 2024, the petitioner received a letter from the respondent's office and it was informed that the petitioner is liable to pay the tax arrears confirmed in the Order dated 02.04.2024 which was uploaded in the GST Portal. During the course of scrutiny of the returns, it was found that there was a mismatch between GSTR 2A and 3B. As per the Impugned Order, a demand of IGST of Rs. 13,00,764.50; CGST of Rs. 507.35 and SGST of Rs.507.37 has been confirmed against the petitioner towards excess availment of Input Tax Credit (ITC) in GSTR 3B over and the above ITC available in GSTR 2A. Apart from this, an amount of Rs. 9389 being the short payment of IGST demanded based on the difference between the GSTR 3B and GSTR 1. These demands were confirmed along with interest and penalty.

2.1. It is submitted by the learned counsel for the petitioner that the reasons for such mismatch were that the IGST paid for imports were taken as ITC, but the same has not been reflected in the GSTR 2A due to non-integration of icegate customs portal with GST portal. The respondent without considering the above reply, proceeded to confirm the demand observing that the petitioner had not filed any reply nor attended the personal hearing. Neither the show cause notice nor the assessment order was not served via post or hand delivery, therefore the petitioner was not aware of the impugned Order ref: GSTIN 33ACMFS6075R1Z7/2018-19 dated 02.04.2024 along with summary order in Form DRC-07 ref No. ZD330424011089R dated 02.04.2024 uploaded on the portal, hence the petitioner could not be able to file an appeal against the said order before the appropriate forum within the statutory period.

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 02.04.2024 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:

Assistant Commissioner (ST),
MMDA Colony Assessment Circle,
No.10, 2nd Floor, Palaniyappa Maligai,
Greams Road, Chennai – 600 006.

J.SATHYA NARAYANA PRASAD,J.

vm

W.P.No.36432 of 2024

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