IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.36745 of 2024
and
W.M.P.Nos.39654 & 39655 of 2024

M/s.Sriman Wood Works,
rep.by its Partner V.Geetha ... Petitioner

Vs.

The Assistant Commissioner (ST) (FAC)
Pollachi (Rural) Assessment Circle,
Pollachi 642 001. .. Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling of the respondent in his order in GST : 33ABIFS6015Q1ZR/2017-2018 dated 26.12.2023 and quash the same.

For Petitioner : Mr.S.Ramanathan

For Respondent : Mr.Prasanth Kiran
Government Advocate (T)

ORDER

The present writ petition is filed challenging the impugned order in GST: 33ABIFS6015Q1ZR/2017-2018 dated 26.12.2023, passed by the respondent .

2. It is submitted by the learned counsel for the petitioner that the petitioner is is a dealer in wooden pallets boxes and it is registered under the GST Act. During the relevant period of 2017-18, the petitioner has filed the returns and paid appropriate taxes. However, on scrutiny it was found that there was a mismatch between GSTR 3B and GSTR 1.

3. It is submitted by the learned counsel for the petitioner that an intimation in Form GST DRC 01A was issued on 25.08.2023. The petitioner has not filed any reply to the respondent. Thereafter, notice was also issued on 20.09.2023. However, the petitioner had not responded to any of the above notices / intimation, the impugned order was thus passed confirming the proposal. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, he would be able to explain the discrepancy between GSTR 3B and GSTR 1.

4. The learned counsel for the petitioner would submit that 10% of the disputed tax has already been deposited while preferring the appeal before the Deputy Commissioner (GST) Coimbatore. Apart from that, now he is ready and willing to pay 15% of the disputed tax

5. The learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of **Sree Manoj International Vs. Deputy State Tax Officer in W.P.No.10977 of 2024 dated 25.04.2024**, to submit that this court has remanded the matter back in similar circumstances subject to payment of 15% of the disputed taxes.

6. It was further submitted that the petitioner is ready and willing to pay 15% of the disputed tax and that he may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Government Advocate appearing for the respondent does not have any serious objection.

7. In view thereof, the impugned order dated 26.12.2023 is set aside on condition that the petitioner pays 25% of the disputed tax. The petitioner has already deposited 10% while preferring the appeal before the Deputy Commissioner (GST) Coimbatore. The petitioner shall deposit the remaining 15% of the disputed tax within a period of four weeks from the date of receipt of a copy of this order. On complying with the above condition, the impugned order of assessment 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 respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

8. This Writ Petition is disposed of with the aforesaid observation and direction. No costs. Consequently, connected miscellaneous petitions are closed.

10.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
kkd

To

The Assistant Commissioner (ST) (FAC)
Pollachi (Rural) Assessment Circle,
Pollachi 642 001.

J.SATHYA NARAYANA PRASAD, J.

kkd

W.P.No.36745 of 2024

10.12.2024