IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.36778 of 2024
and
W.M.P.Nos.39692 & 39693 of 2024

P.& D Castings
Represented by its Partner
Thiagarajan ... Petitioner

Vs.

The Assistant Commisioner,
Padi: Ambattur : Kancheepuram
Room No.417, 4th Floor,
The Integrated Building for Commercial Tax
& Registration Department,
Nandanam, Chennai 600035. .. Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the recors relating to the impugned in Reference No.ZD3311231829874/2017-18 dated 29.11.2023 passed by the respomdent and quash the same.

For Petitioner : M/s.V.Vijayalakshmi

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

ORDER

The present writ petition is filed challenging the impugned order Reference No.ZD3311231829874/2017-18 dated 29.11.2023 passed by the respondent.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of manufacturing of Non ferrous Gravity Die Castings and Sand Castings and allied 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, during the scrutiny of the petitioner's return, it was found that there was mismatch between GSTR 1 and GSTR 3B. Subsequently, a notice was issued to the petitioner in Form DRC-01A on 02.09.2023, followed by a notice in DRC-01A on 12.09.2023. The petitioner was also issued show cause notice and reminder on 02.11.2023. However, the

petitioner had neither filed its reply nor paid the tax amount. Hence, the impugned order came to be passed, confirming the proposal. Aggrieved by the same, the petitioner preferred an appeal before the appellate authority, Deputy Commissioner (ST), GST Appeals II, Chennai which was however rejected on the ground that the same is beyond the statutory period.

3. 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 1 and GSTR 3B.

4. The learned counsel for the petitioner would submit that 39% of the disputed tax has already been deposited by way of Electronic Credit Ledger. Apart from that, the petitioner had deposited 10% of the disputed tax while preferring the appeal before the Deputy Commissioner (ST) Chennai.

5. The learned Special Government Pleader appearing for the respondents submits that he has no serious objection.

6. In view thereof, the impugned order dated 29.11.2023 is set aside and the matter is remitted back to the respondent. The respondent may verify whether the petitioner has remitted the amount in excess of admitted tax. If on verification, it is found that the amount is not remitted then the petitioner shall deposit 49% of the disputed tax within a period of four (4) weeks from the date of receipt of a copy of this order. The respondent authority shall take into account the amount remitted by the petitioner in excess of the admitted tax, while reckoning 49% of the disputed tax. 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 (4) 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.

7. 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

<u>To</u>

The Assistant Commisioner,
Padi: Ambattur : Kancheepuram
Room No.417, 4th Floor,
The Integrated Building for Commercial Tax
& Registration Department,
Nandanam, Chennai 600035

J.SATHYA NARAYANA PRASAD, J.

kkd

W.P.No.36778 of 2024

10.12.2024