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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.36706 of 2024
and
W.M.P.Nos.39607 & 39608 of 2024

R A Metal Finishers Private Limited
Represented by its Director,
Mr. Harikrishnan Raja, No.8,
Harivardhan Street, Santhosh Nagar,
Palavakkam, Chennai, Tamil Nadu-600 041

... Petitioner

Vs.

The State Tax Officer,
(also Known as Commercial Tax Officer,)
Thiruvanmiyur Assessment Circle,
Station: Room No.242, Integrated Commercial Taxes &
Registration Department Building,
Nandanam, Chennai - 600035.

...Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari call for the records on the files of the Respondent herein in GSTIN 33AAGCR6798D1Z3/ 2019-20 dated 06.08.2024 and quash the same.

For Petitioner : M/s.A.N.R..Jayaprathap

For Respondents : M/s.TNC.Kaushik, AGP(T)
for sole respondent

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O R D E R

The Writ Petition is filed to call for the records on the files of the Respondent herein in GSTIN 33AAGCR6798D1Z3/2019-20 dated 06.08.2024 and quash the same.

2. The facts that has given rise to the above Writ Petition is hereinbelow set out:-

2(i). The petitioner is a registered dealer under the provisions of the Tamil Nadu Goods and Service Tax Act 2017 (hereinafter referred as the "TNGST Act")/Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act")/Integrated Goods and Services Tax Act (hereinafter referred as the "IGST Act") on the file of the State Jurisdiction Officer having registration in GSTIN.33AAGCR6798D1Z3.

2(ii).The petitioner would submit that he complies with the applicable provisions of the Act and the Goods and Services Tax Rule, 2017 (hereafter after referred to as the "Rules"). The petitioner would submit that the input tax credits available on purchases are being adjusted on the output sales. The petitioner would further submit that he has been

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very regular in the filing of GST returns and has been making payments without any default.

2(iii).The petitioner would submit that without serving an intimation in FORM GSTASMT-10, the respondent has directly issued a show cause notice in FORM GRT DRC-01 dated 30.05.2024. The allegation was that there was a mismatch between FORM GSTR2A and GSTR3B. The petitioner had immediately sent a reply to this show cause notice, annexing a detailed reconciliation report. However, the petitioner's explanation was not considered and by the impugned order the respondent had confirmed the demand notice together with interest at 18% as envisaged in Section 50 of the TNGST Act 2017. The total abstract of the proposed demand was a sum of Rs.7,25,094/-. The petitioner would question the impugned order on the ground that there is a gross violation of the principles of natural justice in as much as his explanation has not been considered and the same has been rejected with a one line order which is hereinbelow extracted:-

> *“ Taxpayer reply was not accepted. Hence the above proposal is confirmed”*

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2(iv).The petitioner would submit that they have sufficient balance of the input tax credit after utilising the same towards IGST, CGST and TNGST. Therefore, the very demand and the impugned order passed is in gross violation of principles of natural justice.

3.Heard the counsels on either side.

4.A perusal of the records would indicate that the respondent had issued a summary of show cause notice dated 31.05.2024 to the petitioner for the tax period April 2019 to March 2020 under Section 73 of the TNGST Act, 2017, stating that for the period April 2019 and March 2020 there was a due of Rs.3,79,929/- each towards SGST and CGST and had called the petitioner for enquiry on 30.06.2024.

5.The petitioner had not responded to the said notice and therefore a reminder was sent on 06.07.2024. The petitioner had sent a reply to the show cause notice on 06.07.2024 through online portal clearly stating that according to the comparison sheet under the GST system between GSTR 3B Vs. GSTR-2A, the petitioner had excess credit of Rs.1,40,684/-. He had also attached the reconciliation report. A perusal of the reconciliation

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report clearly shows that after adjusting the amount towards IGST, CGST and SGST, an amount of Rs.1,40,684/- was still available. This reconciliation statement has not been taken note of by the respondent. On the contrary, the respondent would simply state that the reply is not accepted. The reason for not accepting the explanation has not been spelt out in the impugned order. The impugned order is a one line non-speaking order. Such an order cannot be sustained.

6.Therefore, the Writ Petition is allowed, the impugned order is set aside and the matter is remitted back to the respondent to consider the afresh the demand in the show cause notice and the reply. The said exercise shall be completed within a period of 4 weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petitions are closed.

03.12.2024

(shr)
Index : Yes/No
Speaking Order: Yes/No
Neutral Citation : Yes/No

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To

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