IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.37817 of 2024
and
WMP Nos.40888 & 40890 of 2024

M/S.PATERSON ENERGY PRIVATE LIMITED
REPRESENTED BY ITS DIRECTOR,
MR. MAITREYAN AMARNATH
NO.3, BHAVANI MANSION
4TH LANE, NUNGAMBAKKAM
CHENNAI 600034. ... Petitioner

Versus

1. THE DEPUTY COMMISSIONER (ST)
O/o.THE ASSISTANT COMMISSIONER,
GST APPEALS, CHENNAI I,
C.T.ANNEXE BUILDING, 2ND FLOOR,
GREAMS ROAD, CHENNAI 600 006.
2. THE ASSISTANT COMMISSIONER (ST),
O/o THE ASSISTANT COMMISSIONER
NUNGAMBAKKAM ASSESSMENT CIRCLE,
NO.88, MAYOR RAMANATHAN SALAI,
2ND FLOOR, EGMORE-NUNGAMBAKKAM TALUK OFFICE,
SPUR TANK ROAD, CHETPET
CHENNAI 600 031. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorari, calling for the entire records connected with the

Impugned Order of the 2nd Respondent and his proceedings in Ref: ZD330424236282Q in GSTIN:33AAICP5845K1Z2/2018-2019 dated 29.04.2024 and QUASH the same.

For Petitioner : Mr.A.Arun
For Respondents : Mr.C.Harsha Raj
Additional Government Pleader

ORDER

The present Writ Petition is filed challenging the impugned order dated 29.04.2024 passed by the second respondent relating to the assessment year 2018-19.

2. Mr.C.Harsha Raj, learned Additional Government Pleader takes notice on behalf of the respondents. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The petitioner firm is involved in waste plastic management, recycling and other works for the past 8 years. The petitioner firm is registered under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. However, on scrutiny of the returns filed by the petitioner, it was noticed that there was a mismatch between between GSTR-3B and GSTR-2A, which indicates excess availment of Input Tax Credit (ITC).

3.1. Pursuant thereto, a show notice in Form GST DRC-01 dated 05.10.2023 was issued to the petitioner through GST common portal, for which, the petitioner responded vide replies dated 16.11.2024 and 12.04.2024. It was submitted that there was a reminder notice dated 05.04.2024, wherein, after reversing the entire ITC that was availed, interest sought to be levied. The taxpayer/petitioner submitted its reply and also appeared for personal hearing and would submit that the interest is inappliable inasmuch as the entire tax has been paid and the excess ITC has already been reversed. However, the impugned order came to be passed, rejecting the petitioner's objections. The only issue that remains to be resolved in the impugned order is the validity/legality or otherwise of the levy of interest, since the entire tax has been paid.

4. It is also submitted by the learned counsel for the petitioner that, the petitioner has filed a representation before the second respondent on 07.06.2024, which has not been considered.

5. Mr.C.Harsha Raj, learned Additional Government Pleader appearing for the respondents submitted that the representation dated 07.06.2024 would be considered by the second respondent and orders passed within a period of 4

weeks from the date of receipt of a copy of this order.

6. In view of the same, taking into consideration the facts and circumstances of the case and the limited relief sought for in this Writ Petition, there shall be a direction to the second respondent to consider the petitioner's representation dated 07.06.2024, on its own merits and pass appropriate orders in accordance with law, after affording reasonable opportunity of hearing to the petitioner, within a period of four (4) weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any views with regard to the merits of the representation and it is open to the concerned respondent to consider the representation on its own merits and in accordance with law.

7. With the above directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

18.12.2024

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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MOHAMMED SHAFFIQ, J.

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