IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.38489 of 2024
and
WMP Nos.41691 and 41694 of 2024

M/s.Sakthivel Enterprises
Represented by its Partner,
A.Ramesh Babu ..Petitioner

Vs.

Deputy Commercial Tax Officer,
Hosur South -1,
CT Building, Seetharam Nagar,
Bangalore Road, Near Old Bus Stand,
Krishnagiri, Hosur-635 109 ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, calling for the records on the files of the respondent herein in Order bearing Reference No.ZD330824252598Z dated 28.08.2024 and quash the same and pass orders.

For Petitioner : Mr.J.Shankarraman

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

The present writ petition is filed challenging the order dated 28.08.2024 on the limited ground that the order of adjudication has been made without furnishing the petitioner's documents that forms the basis, despite a specific request having been made by the petitioner, thereby initiating the order.

2. The petitioner is engaged in the manufacture and supply of machine components and is registered under the GST Act. During the relevant period, the petitioner filed its returns and paid the appropriate taxes. It is stated that the petitioner has stopped its business operation from 31.03.2021 and has not effected any supplies thereafter. While so, on verification of E way bills along with GSTR 3B for the period 2019-20, the following discrepancies were noticed:

i) The taxable value of supplies disclosed in the E way bill was greater than the taxable value of supplies disclosed in the GSTR 3B.

ii) Mismatch between GSTR 3B and GSTR 1.

iii) The petitioners have claimed input tax credit in respect of supplies allegedly effected by dealers whose registration certificate was cancelled, who are returned defaulters or tax non payers.

2.1. Pursuant thereto, a notice in DRC-01 was issued to the petitioner on 23.05.2025. In response to the same, the petitioner had submitted its reply dated 12.08.2024, wherein it was inter alia submitted that because of the closure of the business, they were unable to access the E way bill portal and requested the respondent to furnish the details of the Eway bills generated or to re-activate the petitioner's account on the E way bill portal to enable them to have access so as to enable them to respond to the allegations contained in the show cause notice of difference in the taxable value of supply between E way bill and GSTR 3B.

3. Insofar as the proposal to deny the credit on the premise that the condition contained in Section 16(2)(c) of the Act was not complied with, it was submitted by the learned counsel for the petitioner that the above proposal by placing reliance upon a press release dated 04.05.2018, which is stated to provide that there shall not be any automatic reversal of input tax credit from buyer on non payment of tax by the seller and that recovery shall be made from the seller though reversal of credit would also be an option available with the revenue authorities in certain exceptional circumstances.

4. It is the case of the petitioner that the request for furnishing of the details relating to E way bills was once again reiterated by the petitioner on 14.08.2024. However, the impugned order came to be passed, without even considering the above request nor their reply, by merely stating that the petitioner's reply is not accepted. It is submitted that the impugned order cannot be sustained as it does not deal with the objections nor with the request of furnishing of details in relation to E-way bills. It is submitted that in the absence of the details being furnished, the entire exercise becomes an empty formality.

5. Learned Government Advocate for the respondent would submit that the respondent authority would redo the assessment, after providing the petitioner with the details of the E way bills and after affording the petitioner a reasonable opportunity of hearing.

6. In view thereof, the impugned order dated 28.08.2023 is set aside with with liberty to the respondent authority to redo the assessment, after providing the petitioner with the details that was sought for and a reasonable opportunity of

hearing.

7. Accordingly, the writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.12.2024

Speaking (or) Non Speaking Order
Neutral Citation: Yes/No
mrn

To
The Deputy Commercial Tax Officer,
Hosur South -1,
CT Building, Seetharam Nagar,
Bangalore Road, Near Old Bus Stand,
Krishnagiri, Hosur-635 109

<u>MOHAMMED SHAFFIQ, J.</u>

mrn

<u>W.P.No.38489 of 2024</u>

19.12.2024