BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.1199 of 2024
and W.M.P.(MD)No.1217 of 2024

M/s.Sri Jayalakshmi Transport,
Partnership Firm,
T.S.No.9/9, Mela Panchapur,
Chennai – Madurai Highway,
Trichy – 620 012.
Rep. by its Managing Partner,
Senthilkumar,
S/o.Murugadoss,
Door No.131, Sriamapuram,
Rayarthopu, 4th Street,
Srirangam, Trichy District – 620 006. ... Petitioner

versus

1. The Superintendent of GST & Central Excise,
   Mofussil Range, I Division,
   Trichy.

2. The Assistant Commissioner,
   GST & Central Excise,
   Trichy I Division,
   No.1, Williams Road,
   Cantonment, Tiruchirappalli – 620 001.

3. The Assistant Commissioner,
CGST and C.Ex.Adjudication Section,
Trichy I Division,
No.1, Williams Road,
Cantonment, Tiruchirappalli – 620 001. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records relating to the impugned show cause notice No.24/2023-GST issued by the 2nd respondent in C.No.IV/19/29/2023-GST ADJN DIN 20230959XN010042424D dated 27.09.2023 and quash the same.

For Petitioner : Mr.J.Sivaram

For Respondents : Mr.N.Dilipkumar,
Standing Counsel

ORDER

The show cause notice issued by the second respondent in C.No.IV/19/29/2023-GST ADJN DIN 20230959XN010042424D dated 27.09.2023 is under challenge in this writ petition.

2. The learned counsel appearing for the petitioner submits that the impugned show cause notice is not in accordance with law and

provisions of CGST/TNGST Act 2017 and TNGST Rules 2017. The Government of India, vide a Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017, has exempted the intra-State supply of service of "service by way of access to a road or a bridge on payment of toll charges" from payment of GST, vide Sl.No.23, Heading 9967. The said notification is also applicable to this case. He further submits that the petitioner has already paid the amount of CGST of Rs.11,216/- and SGST Rs.11,216/- towards the tax liability difference and their transport agent M/s.Ramco Cements is already exempted from the tax liability. However, the second respondent, without considering the same, has issued the impugned show cause notice.

4. Mr.N.Dilipkumar, learned Standing Counsel, who takes notice for the respondents, submits that the impugned proceedings is only a show cause notice and therefore, the petitioner Company can very well submit its objections during the enquiry.

5. The impugned proceedings is only a show cause notice. As per the ratio laid down by the Hon'ble Supreme Court in the case of ***Union of India and another vs. Kunisetty Satyanarayana***, reported in ***2006 (12) SCC 28***, this Court is not inclined to entertain this writ petition.

6. Accordingly, this writ petition is closed with liberty to the petitioner to raise the grounds before the concerned authority by way of objections within a period of two weeks from the date of receipt of a copy of this order. On filing such objections, the concerned authority shall consider the same and pass suitable order in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

22.01.2024

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NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.

To

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   Mofussil Range, I Division,
   Trichy.

2. The Assistant Commissioner,
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   Trichy I Division,
   No.1, Williams Road,
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B.PUGALENDHI, J.

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W.P.(MD)No.1199 of 2024

22.01.2024