BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.2617 of 2024
and
W.M.P.(MD)Nos.2637 and 2639 of 2024

Theni Ply Woods,
Rep. by its Partner
R.S.Rajasekaran,
S.F.No.286/1, Theni Plywoods,
Madurai Main Road,
Theni – 625 531. ... Petitioner

versus

The Assistant Commissioner (ST),
Theni – 1 Assessment Circle,
Theni. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the impugned assessment order on the file of the respondent vide GSTIN: 33AACFT4622K1Z9/2017-18 dated 29.12.2023 and quash the same as illegal and devoid of merits and direct the respondent to redo the assessment proceedings for the year 2017-18.

For Petitioner	:	Mr.Raja Karthikeyan
For Respondents	:	Mr.A.Baskaran, Additional Government Pleader

ORDER

The petitioner is a dealer of plywood and he has registered under the GST Act. The petitioner has filed this writ petition as against the assessment order dated 29.12.2023. By the impugned assessment order dated 29.12.2023, the respondent has fixed the liability to the tune of Rs.3,16,79,698/- on the head of IGST and interest of Rs.1,62,47,832/- with a penalty of Rs.31,67,970/-.

2. The case of the petitioner is that the respondent issued a show cause notice pointing out certain defects, for which, the petitioner has submitted his reply. After the scrutiny, the respondent sustained three defects as under:

"i. Wrong claim of ITC – mismatch between GSTR-3B and GSTR 2A.

ii. Discount received from the seller – credit note not produced.

iii. Sundry creditors – we have not produced bank statement evidence.

The major liability was fixed in the head of Sundry Credit. As per Section 16(2) of the Act, the dealer has to pay the consideration towards the credit purchase within 180 days from the date of purchase and if not paid the consideration within 180 days, the dealer shall reverse the ITC to the extent of tax paid inward supply.

3. The petitioner claims that he has paid the tax amount and he has also enclosed the Bank Statement. However, the respondent has passed an order treating the entire purchase value of sundry credit as tax liability, instead of deducting the ITC Tax element involved on the sundry creditors. According to him, the total sundry credit as per the

IT returns is Rs.3,14,65,707/- and the tax component for this purchase value is 18%. However, the assessing authority, without considering the same, has considered the entire value of purchase as a tax amount as ITC and wrongly reversed the entire purchase credit value to the tune of Rs.3,14,65,707/-.

4. Mr.A.Baskaran, learned Additional Government Pleader, who takes notice for the respondent, submits that the petitioner is having a right of filing an application under Section 161 of GST Act to correct the error before the concerned authority within a period of 90 days. If the petitioner is having any grievance as against the amount arrived in the assessment order, he can very well file an application under Section 161 of GST Act, within a period of 90 days.

5. Considering the submission of the learned Additional Government Pleader, this writ petition is disposed of with a liberty to the petitioner to file an application under Section 161 of GST Act

along with the required documents. On filing such application, the respondent shall consider the same in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

08.02.2024

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

To

The Assistant Commissioner (ST),
Theni – 1 Assessment Circle,
Theni.

B.PUGALENDHI, J.

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W.P.(MD)No.2617 of 2024

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