BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.6640 of 2024 and
WMP(MD) Nos.6193 & 6194 of 2024

M/s.Sri Sakthi Aagency,
Represented by its Partner
Mr.A.Prabhu ... Petitioner

Vs

The Superintendent of GST and Central Excise,
Office of the Superintendent of GST and Central Excise,
Musiri Range,
No.1, Williams Road,
Cantonment,
Tiruchirapalli – 620 001. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of CERTIORARI, calling for the records of the impugned Order in Order in Original No. 3/2023 - GST dated 03.08.2023 passed by the Respondent and quash the same.

For Petitioner : Mr.S.Muthuvenkatraman
For Respondent : Mr.N.Dilip Kumar
Standing Counsel

ORDER

The petitioner Company is a partnership firm engaged in distribution of prepaid and connected services for Aircell Company and the Partnership Firm was closed down in the year 2018. The respondent Department has issued ASMT 10 notice on 20.07.2022 that there is a mismatch between GSTR 3B and GSTR 2A, thereby the petitioner availed excess credit. Thereafter, the petitioner was issued with a notice in Form DRC 01A on 28.10.2022, followed by DRC 01. The petitioner has attended personal hearing on 08.02.2023 and 16.05.2023 and submitted his reply. However, without considering the same, the respondent has passed the impugned order, dated 03.08.2023, imposing penalty on the petitioner and the same is under challenge in this writ petition.

2.Today(19.03.2024), when this writ petition is taken up for admission, the learned Standing counsel appearing for the respondent submits that the petitioner is having an appeal remedy.

However, he has not availed the same and as on date statutory period is also over.

3.In view of the submission made by the learned Standing Counsel appearing for the respondent that the petitioner without invoking the appeal remedy, he has filed this writ petition and also the statutory period for filing the appeal is also over and in order to give quietus to this issue, this writ petition is disposed of with a liberty to the petitioner to file an appeal within a period of two weeks from the date of receipt of a copy of this order. In the event, if any such appeal is filed by the petitioner, the Appellate Authority shall entertain the same without insisting the period of limitation. No costs. Consequently, connected Miscellaneous Petitions are closed.

19.03.2024

NCC: Yes/No
Index:Yes
Internet:Yes
vrn

To

The Superintendent of GST and Central Excise,
Office of the Superintendent of GST and Central Excise,
Musiri Range,
No.1, Williams Road,
Cantonment,
Tiruchirapalli – 620 001.

B.PUGALENDHI, J.

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Order made in
W.P(MD)No.6640 of 2024 and
WMP(MD) Nos.6193 & 6194 of 2024

19.03.2024