BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.07.2024

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.6700 of 2024
and
W.M.P.(MD) Nos.6218 & 6219 of 2024

M/s.SGS Traders,
1/90 M, Virudhunagar Main Road,
Vadamalpuram, Thiruthangal,
Tamil Nadu - 626 130,
Represented by its Proprietor
Mr.Sivakumar Subbaiah ... Petitioner

Vs.

The Deputy State Tax Officer-2,
Sivakasi 3 Assessment Circle,
Sivakasi. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records connected with order in GSTIN:33DWDPS8251M1ZZ/2017-18 dated 30.12.2023 passed by the respondent and quash the same for having been passed in gross violation to the principles of natural justice.

For Petitioner : Mr.N.Vishwanathan

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

The petitioner, an assessee with the State Tax Authority under the provisions of the respective GST Enactments, is before this Court challenging the impugned order dated 30.12.2023 passed by the respondent.

2. By the impugned order dated 30.12.2023, the demands proposed in the Notice in Form GST DRC 01 dated 20.09.2023 have been confirmed under the following heads:-

i. Input Mismatch (GSTR 3B Vs. GSTR 2A)
ii. RCM not paid for certain transactions
iii. Tax on rebate received
iv. ITC reversal on inward supplies for which payment was not made for a period more than 180 days
v. Liability for Advance for Land

3. The specific case of the petitioner is that Central Tax Authorities had seized all records and had passed Order-in-Original No.MDU-GST-ADC-17-2022 dated 30.12.2022, against which, the petitioner has filed W.P.(MD) No.8390 of 2023 and has obtained an interim stay on 17.04.2023 which stay has been made absolute on 02.08.2023.

4. It is submitted that the petitioner was unable to reply to the notice dated 20.09.2023 in absence of the documents which were seized by the Central Tax Authorities. In the meantime, the respondent has proceeded to pass the impugned order.

5. Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent, I am of the view that the impugned order in the manner in which it has been passed is liable to be interfered with.

6. Accordingly, the impugned order is quashed and the case is remitted back to the respondent to pass fresh order on merits and in accordance with law, within a period of 9 months from today.

7. It is open for the petitioner to work out the remedy for retrieving the documents required to file a reply. It is expected that the petitioner will liaise with the Central Tax Authorities to retrieve the seized documents, and file a reply within a period of 3 months from today.

8. In the result, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

16.07.2024

Index: Yes / No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

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Copy To:

The Deputy State Tax Officer-2,
Sivakasi 3 Assessment Circle,
Sivakasi.

C.SARAVANAN, J.

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and
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