BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD) No.7488 of 2024
and
W.M.P(MD) No.6868 of 2024

M/s.P.K.T.Agency ... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Kuzhithurai Assessment Circle,
Commercial Taxes Buildings,
Nagercoil.

2.The State of Tamil Nadu,
Represented by its Secretary,
Commercial Taxes Department,
Fort St.George, Chennai-600 009.

3.Union of India,
Secretary to the Government of India,
Ministry of Finance (MOF),
Raj Path Marg, 'E' Block,
Central Secretariat,
New Delhi-110011. ... Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records on the file of the first respondent in GSTIN:33BEXPG7434Q1ZN/2017-18, dated 29.12.2023 passed by the first respondent under Section 73 of TNGST Act 2017 and to quash both as cryptic, non speaking, illegal, arbitrary, wholly without jurisdiction.

For Petitioner : Mr.N.Sudalaimuthu

For Respondents : Mr.A.Baskaran
Additional Government Pleader
for R1 & R2

Mr.S.P.Paramasivan for R3

ORDER

Challenging the order of assessment in GSTIN: 33BEXPG7434Q1ZN/2017-18, dated 29.12.2023 for the assessment year 2017-18, this writ petition is filed by the petitioner. By the order impugned, the input tax credit claimed by the petitioner has been reversed and penalty was imposed.

2. According to the petitioner, the petitioner's husband is running a petrol bunk in the name of M/s.Thangappan Petroleum and this petitioner is running an agency in the name of M/s.P.K.T.Agency. The invoices raised by the petitioner were inadvertently taken in the name of

M/s.Thangappan Petroleum instead of this petitioner's M/s.PKT Agency. The above mistake was highlighted by the respondents only in the year 2023 through the show cause notice. Since six years have lapsed, the web portal does not allow the petitioner or her husband or their suppliers to file rectified monthly returns. Therefore, the petitioner sought some accommodation to rectify the mistake and to submit a fresh return before the respondents.

3. The learned Additional Government Pleader appearing for the respondents submits that as against this order, the petitioner is having an appeal remedy.

4. Though the petitioner is having an appeal remedy, the petitioner, without invoking the same, has filed this writ petition before this Court. Moreover, this Court is not inclined to appreciate the grounds raised in support of this writ petition, since these grounds have to be appreciated by the appellate authority. Therefore, this Writ Petition is dismissed with liberty to the petitioner to file statutory appeal. Since the petitioner has filed this writ petition wrongly before this Court, time limit is provided

to the petitioner to file an appeal within a period of two weeks from the date of receipt of a copy of this order. On filing of such appeal, the appellate authority shall consider the plea raised by the petitioner and pass suitable orders as expeditiously as possible. No costs. Consequently, connected miscellaneous petitions are closed.

27.03.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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To

1.The Assistant Commissioner (ST),
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Nagercoil.

2.The Secretary,
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Commercial Taxes Department,
Fort St.George, Chennai-600 009.

3.Union of India,
Secretary to the Government of India,
Ministry of Finance (MOF),
Raj Path Marg, 'E' Block,
Central Secretariat,

New Delhi-110011.

B.PUGALENDHI,J

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W.P.(MD)No.7488 of 2024

Dated: 25.03.2024