BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.04.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) No.8430 of 2024
and
W.M.P.(MD) Nos.7642 and 7643 of 2024

M/S.Sri Valli Jewellers
represented by its Proprietor
Mr.Kailasam Asary Vembu
Ambasamudram Taluk 627 425,
Tirunelveli District. ... Petitioner

/vs./

The State Tax Officer,
Ambasamudram Assessment Circle,
Ambasamudram,
Tirunelveli District. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for records pertaining to the impugned order passed by the Respondent vide his order in GSTIN 33ACEPV1810B1Z7/2017-2018 dated 30-11-2023, quash the same as it is illegal and in gross violation of Principles of Natural Justice and further direct the respondent to pass appropriate order in accordance with law after providing an opportunity of Personal Hearing.

For Petitioner : Mr.A.Satheesh Murugan

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

ORDER

The petitioner has suffered the impugned assessment order dated 30.11.2023 passed in GSTIN 33ACEPV1810B1Z7/2017-18 for the assessment year 2017-2018.

2.By the impugned order, the petitioner has been called upon to pay a sum of Rs.2,83,254/- as tax, Rs.2,86,358/- as interest under Section 50(1) of the Act and penalty of Rs.28,326/- under Section 73 of the Act. It is the specific case of the petitioner that the petitioner has made a mistake in Form GSTR-3B filed under Rule 61(5) of TNGSTR Rules, 2017. It is submitted that the value of inward supply has been wrongly declared as Rs.1,74,790/-. It is submitted that sale ought to have been added to the outward supplies of the petitioner and that the petitioner has paid the tax on the outward supply. The impugned order has considered the representation of the petitioner as observed as under:-

"***Consideration for Reply:-***

After considering the reply of the tax payer, the returns of the tax payer GSTR 3B and GSTR 1 were verified and the following was confirmed as below.

Particulars	***Turnover***	***IGST***	***CGST***	***SGST***
GSTR 1	*7959246*	*0*	*119388*	*119388*
GSTR 3B (Table 3.1a + b + c	*6385618*	*0*	*95783*	*95783*
Difference	***1573628***	***0***	***23605***	***23605***

Upon verification, it is found that the tax payer had reported Inward supplies liable to reverse charge in Table 3.1d of Rs.20,08,522/-. For that they had claimed ITC in every month without missing. But the tax payer stated that they had wrongly reported that amount in Table 3.1d, which is not acceptable because the tax payer had claimed ITC in GSTR 3B Table 4A(3).

Hence, the defect was confirmed and ascertained to levy tax, interest and penalty as per the above said Show cause notice."

3.The above observation is not clear. It calls for a proper reasoning by the respondent. The petitioner also appears to have committed a mistake in the returns filed during July 2017-2018. This was immediately after the implementation of the respective GST enactment from 01.07.2017.

4.Considering the same, the impugned order is set aside and the case is remitted back to the respondent to pass fresh orders on merits and in accordance with law. The petitioner is directed to give a proper explanation giving particulars of the inward and outward supplies and the mistake committed while filing the returns in Form GSTR-3B within a period of 30 days from the date of receipt of a copy of this order. The entire exercise is expected to be completed by the respondent preferably within a period of 60 days from the date of receipt of a copy of this order.

5.The Writ Petition stands disposed of, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

03.04.2024

Index : Yes / No
Internet : Yes / No
mm

To

The State Tax Officer,
Ambasamudram Assessment Circle,
Ambasamudram,
Tirunelveli District.

C.SARAVANAN, J.

mm

W.P.(MD) No.8430 of 2024

03.04.2024