BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.04.2024**

CORAM:

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

W.P.(MD) No.9510 of 2024
and
W.M.P.(MD) Nos.8626 and 8627 of 2024

Tvl.Nellai Agencies,
represented by its Proprietor, S.Prince Rathinasingh,
No.4-1-145, Cin Winskudil,
College Road 2nd Lane,
Uthamapalaym,
Theni 625 533. ... Petitioner

/vs./

1.The Union of India,
rep. by Secretary,
Department of Revenue, Ministry of Finance,
No.137, North Block,
New Delhi 110 001.

2.The Goods and Services Tax Council,
rep. by its Chairman,
GST Council Secretariat,
5th Floor, Tower – II,
Jeevan Bharthi Building,
Janpath Road,
Connaught Palace,
New Delhi 110 001.

3.The State of Tamil Nadu,
Commercial Taxes and Registration Department,
Secretariat,
Fort St.George, Chennai 600 009.

4.Principal Secretary/Commissioner of Commercial Taxes,
Commercial Taxes Department,
Ezhilagam, Chepauk,
Chennai 600 005.

5.State Tax Officer,
Uthamapalayam Assessment Circle,
Uthamapalayam. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records on the file of the 1st respondent in Notification No.09/2023 - Central Tax dated 31-03-2023 and the records on the file of the 3rd respondent in G.O Ms.No. 41 and the Notification dated 05-04-2023 issued therein and the records on the files of the 5th respondent in GSTIN-33ALZPP5145R1Z0/2017-18 dated 29.12.2023 and quash the same as manifestly arbitrary, void, contrary to the provision of Section 168A and Section 74 of the Goods and Services Tax Act, 2017 and violative of Articles 14 and 19(1)(g) of the Constitution of India and without jurisdiction.

For Petitioner	: Mr.S.Raja Jeya Chandra Paul
For R1	: Mr.K.Asok Kumar CGSPC
For R3 to R5	: Mr.R.Suresh Kumar Additional Government Pleader

ORDER

Mr.K.Asok Kumar, CGSPC takes notice for the first respondent and Mr.R.Suresh Kumar, learned Additional Government Pleader takes notice for the respondents 3 to 5.

2.The petitioner has challenged the impugned order passed by the fifth respondent bearing Ref.No.ZD331223265640Q dated 29.12.2023.

3.The specific case of the petitioner is that the petitioner has not been issued with a notice in Form DRC-01A. That apart, it is submitted that the petitioner has also not been issued with the personal hearing notice. On merits, the learned counsel for the petitioner would submit that there is a minor discrepancy in the returns that were filed. However, the input tax credit has been wrongly denied by the respondent.

4.The learned counsel for the petitioner would further submit that the petitioner may be given one opportunity of being heard. That apart, it is submitted that the impugned order has been passed based on the notifications issued contrary to Section 168A of the CGST Act, 2017 and prayed for setting aside the impugned order.

5.I have perused the impugned order.

6.The impugned order is a non speaking order. It merely reproduces the provisions in TNGST Act, 2017 and thereafter concludes that the petitioner was liable to pay tax as demanded. Although the petitioner has not responded to the earlier notice issued, the fact remains that the impugned order is also a non speaking in nature.

7.Therefore, the impugned order is quashed and the case is remitted back to the fifth respondent to pass a fresh order on merits and in accordance with law within a period of 60 days from the date of receipt of a copy of this order. The impugned order, which stands quashed, shall be treated as corrigendum to the notices issued to the petitioner earlier. The petitioner is directed to co-operate with the fifth respondent.

8.The Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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18.04.2024

To

1.The State of Tamil Nadu,
Commercial Taxes and Registration Department,
Secretariat,
Fort St.George, Chennai 600 009.

2.Principal Secretary/Commissioner of Commercial Taxes,
Commercial Taxes Department,
Ezhilagam, Chepauk,
Chennai 600 005.

3.State Tax Officer,
Uthamapalayam Assessment Circle,
Uthamapalayam.

C.SARAVANAN, J.

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W.P.(MD) No.9510 of 2024

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