BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.06.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.11633 of 2024
and
W.M.P.(MD) No.10354of 2024

Tvl.M/s.Ambresh & Co,
Represented by its Partner Ambresh,
No.1, NA, Pasumpon Thevar Street,
Ellis Nagar,
Madurai – 625 016. ... Petitioner

Vs.

Deputy State Tax Officer (ST),
Westveli Street Circle,
Madurai. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for impugned assessment order on the file of the respondent vide GSTIN:33AAZFM4488R1ZZ/2018-19 dated 20.04.2023 and quash the same and direct the respondent to redo the assessment proceedings for the year 2018-19.

For petitioner : Mr.Raja.Karthikeyan

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

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ORDER

The petitioner appears to be a Government contractor, who had rendered service to the Government Departments. It appears that the petitioner had paid the tax, although a portion of the tax payable by the petitioner was deducted by the concerned department and was reflected in Form GSTR-07 under Rule 61 of the TNGST Rules, 2017 read with Section 15 of the TNGST Act, 2017. Later, the department realised that the petitioner had not paid tax and had recovered the amount from the petitioner and acknowledged the same in DRC 03 dated 08.08.2022.

2. It is noticed that the impugned order was passed on 20.04.2023, however, the petitioner has failed to file an appeal against the impugned order.

3. The case of the petitioner is that the petitioner had sufficient amount in the electronic credit ledger and therefore, the petitioner need not be visited in person. A query as to whether the petitioner failed to pay monthly tax as is contemplated. The learned counsel for the petitioner would submit that the amount was not reflected in the regular return filed by the petitioner in GSTR-3B as no amount received and that the amount was later accounted for after the payment of the tax.

4. Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent, this Court is of the view that there is no merit in the present Writ Petition. If at all, the petitioner ought to have filed statutory appeal under Section 107 of the respective GST enactment before the Appellate Commissioner. The time for filing appeal has already expired as the impugned order is dated 20.04.2023 and the Writ Petition has been filed exactly one year and nine days later on 29.04.2024.

5. Considering the fact that the amount has already been recovered from the petitioner on 08.08.2022 as it is evident from Form GST DRC -03, this Court is

inclined to give liberty to the petitioner to file statutory appeal on merits and in accordance with law within a period of 30 days from the date of receipt of a copy of this order.

This Writ Petition is disposed of with above directions. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes / No
apd

05.06.2024

To
Deputy State Tax Officer (ST),
Westveli Street Circle,
Madurai.

C.SARAVANAN, J.

apd

W.P.(MD) No.11633 of 2024

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