BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.08.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)Nos.12443 and 12444 of 2024
and
W.M.P.(MD)Nos.11029, 11030, 11054 and 11057 of 2024

W.P.(MD)No.12443 of 2024:

Tvl.P.S.Gunasekaran,
Represented by its Partner,
P.S.Gunasekaran ... Petitioner

Vs.

The State Tax Officer,
Munichalai Road Circle,
Madurai – 20. ... Respondent

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 respondent in GSTIN: 33AAOFP6250H1Z4/2019-2020/(April 2019 to March 2020) Dated 19.02.2024 and quash the same as illegal, invalid and against the principles of natural justice.

For Petitioner : Mr.A.Chandrasekaran

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

W.P.(MD)No.12444 of 2024:

Tvl.P.S.Gunasekaran,
Represented by its Partner,
P.S.Gunasekaran ... Petitioner

Vs.

The State Tax Officer,
Munichalai Road Circle,
Madurai – 20. ... Respondent

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 respondent in GSTIN: 33AAOFP6250H1Z4/2020-2021/(April 2020 to March 2021) Dated 19.02.2024 and quash the same as illegal, invalid and against the principles of natural justice.

For Petitioner : Mr.A.Chandrasekaran

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

COMMON O R D E R

These Writ Petitions are filed challenging the assessment orders dated 19.02.2024, for the period 2019-2020 and 2020-2021, on the premise that the denial of the Input Tax Credit, on the ground that the petitioner has not produced the details to show that the payments made to their suppliers, is contrary to the material on record.

2. The petitioner was engaged in supply of general goods including grocery, ever-silver and household articles. During the period 2019-2020 and 2020-2021, the petitioner had effected purchases from various dealers and filed his return. While so, the petitioner was issued with the show cause notices DRC-01A, wherein, it was proposed to reverse the Input Tax Credit relating to the amounts shown under the head 'Sundry Creditors' by invoking Section 16(2)(d) of the GST Act on the premise that the Sundry Creditors has not been paid the value of supplies within a period of 180 days from the date of issue of invoices, as a result of which the Input Tax Credit was sought to be disallowed. The petitioner submitted his reply vide DRC 01A Part-B *inter alia* enclosing the customer-wise ledger details showing that the Sundry Creditors had been paid within 180 days from the date of invoice and as such, there was no outstanding payment to any of the suppliers beyond the period of 180 days from the date of raising of the invoices.

3. By referring to Page Nos.35 to 103 of the additional typed set of papers, it was submitted that the Bank statements or ledger wise details etc., were submitted before the learned adjudicating authority which would disclose

that the suppliers were in fact paid within a period of 180 days from the date of raising of the invoice and thus, there is no occasion to invoke Section 16 (2)(d) of the Act.

4. It was submitted that the impugned order has been passed without application of mind to the material on record by affirming its proposal by merely stating that the petitioner had not submitted the details of date of payment with relevant documents. It was submitted that a close perusal of the documents submitted would disclose the date of payment and it also reveals that the suppliers had been paid before the expiry of 180 days from the date of raising of the invoice.

5. The impugned order thus suffers from violation of principles of natural justice inasmuch as the petitioner was not put on notice of the need to submit the date of payment. There is some merit in the submission of the learned counsel for the petitioner inasmuch as voluminous documents have been filed. However, the same has been rejected by the respondent herein by merely stating that the details relating to the date of payments are not available. If the respondent had any doubt as to the date of payment being beyond the period of

180 days, the petitioner ought to have been put on notice of the same. As a matter of fact, the date of payment is also available in the documents submitted by the petitioner. At this juncture, when the same was pointed out to the learned Additional Government Pleader, he submitted that the exercise would be re-done.

6. In view thereof, the impugned orders in GSTIN: 33AAOFP6250H1Z4/2019-2020/(April 2019 to March 2020) Dated 19.02.2024 and GSTIN: 33AAOFP6250H1Z4/2020-2021/(April 2020 to March 2021) Dated 19.02.2024, are set aside. The petitioner shall submit a detailed statement including the date of invoices and date of payment made and the mode of payment, before the respondent, within a period of four weeks from the date of receipt of a copy of this order, failing which the impugned orders would stand revived. On such reply being filed, the respondent/authority shall re-do the assessment, after providing an opportunity of personal hearing to the petitioner.

7. With the above direction, the Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

20.08.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

The State Tax Officer,
Munichalai Road Circle,
Madurai – 20.

MOHAMMED SHAFFIQ, J.

Nsr

W.P.(MD)Nos.12443 and 12444 of 2024

20.08.2024