BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.06.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.13161 of 2024
and
W.M.P.(MD)No.11660 of 2024

M/s. Lekshmi Marketing
Represented by its Proprietor P. Rajeneesh,
GSTIN 33BAQPR9712P1ZS,
6-69,Peruvilai,
Parvathipuram,
Kanniyakumari - 629 003. ... Petitioner

Vs

1.The State Tax Officer
Nagercoil - 2 Assessment Circle,
Commercial Taxes Buildings, Nagercoil.

2.The Appellate Deputy Commissioner (GST)(Madurai & Tirunelveli)
4th Floor, Commercial Taxes Buildings,
Dr.Thangaraj Salai, Madurai-625 020. ... Respondents

(R2 is impleaded as *sue moto* vide order dated 21.06.2024
in W.P.(MD).No.13161 of 2024)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus to call for the records relating to impugned assessment order issued by the respondent in GSTIN 33BAQPR9712P1ZS/2017-18 dated 23.12.2023 and quash the same as arbitrary and illegal and direct the respondent to pass an assessment order afresh after affording the opportunity of personal hearing.

For petitioner	: Mr.M.Sudalai Muthu
For respondents	: Mr.R.Suresh Kumar Additional Government Pleader

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ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

2. The petitioner has challenged the impugned order passed by the respondent on 23.12.2023 bearing reference No. GSTIN 33BAQPR9712P1ZS for the assessment year 2017-18. The petitioner has filed this Writ Petition on 11.06.2024.

3. The case of the petitioner appears to be the petitioner made a wrong entry in Form GST DRC 3B, while filing the Income Tax Credit in Serial No.4.A.

(3) instead of Serial No.4.A.(5), as a result of which, the aforesaid credit of Rs.15,386.37/- each towards the Central Tax and State Tax availed as Income Tax Credit, is sought to be denied.

4. The learned counsel for the petitioner submits that the mistake occurred on account of the wrong entry made while filing Form GST DRC 3B for the assessment year 2017-18 and that the mistake arose on account of the fact that the petitioner as also the petitioner's staff were still getting used to various forms required to be filed under the provisions of the TNGST Act, 2017.

5. It is noticed that the petitioner has already filed a reply to the show cause notice that preceded the impugned order issued by the first respondent.

6. This Court is not really concerned with the correctness of the decision in the impugned order. However, the Court is only concerned with the decision making process. The petitioner has an alternative remedy to file an Appeal before the Appellate Deputy Commissioner (GST), Madurai and Tirunelveli against the impugned order.

7. At best, the petitioner can be given a liberty to file statutory appeal before the Appellate Deputy Commissioner (GST), Madurai and Tirunelveli.

8. Since the Appellate Deputy Commissioner (GST), Madurai and Tirunelveli is not a party to this proceedings, the Appellate Deputy Commissioner(GST), Madurai and Tirunelveli, is impleaded as *sue moto* as second respondent.

9. Considering the same, the Court is inclined to dispose of this Writ Petition by permitting the petitioner to file statutory appeal before the Appellate Deputy Commissioner (GST), Madurai and Tirunelveli.

10. The petitioner shall file an Appeal before the Appellate Deputy Commissioner (GST), Madurai and Tirunelveli within 30 days from the date of receipt of a copy of this order. If the petitioner will comply with the requirements under Section 107 of TNGST Act, 2017, the second respondent shall entertain the Appeal and dispose of the same on merits and in accordance with law within three months thereafter.

11. Since the petitioner is entitled to all legal defence that are available, the second respondent while passing the orders on merits, may look into the assessment order dated 01.04.2024 for the assessment year 2018-19.

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

Index : Yes / No
Internet : Yes / No
apd

21.06.2024

To

1.The State Tax Officer
Nagercoil - 2 Assessment Circle,
Commercial Taxes Buildings, Nagercoil.

2.The Appellate Deputy Commissioner (GST)(Madurai & Tirunelveli)
4th Floor, Commercial Taxes Buildings,
Dr.Thangaraj Salai, Madurai-625 020.

<u>C.SARAVANAN, J.</u>

apd

W.P.(MD) No.13161 of 2024

21.06.2024