BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.14497 of 2024
and
W.M.P.(MD)No.12735 of 2024

M/s.Xavier Timber,
Represented by its Proprietor A.Xavier Rajan. ... Petitioner

Vs.

The State Tax Officer,
Tenkasi Assessment Circle,
Commercial Taxes Buildings,
Tenkasi. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to impugned assessment order issued by the respondent in GSTIN: 33AAAPX3136C1Z4/2017-18 dated 28.12.2023 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.N.Sudalaimuthu

For respondent : Mr.J.K.Jayaselan
Government Advocate

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ORDER

Heard learned counsel for the petitioner and learned Government Advocate for the respondent.

2. The petitioner is before this Court against the impugned order dated 28.12.2023 passed by the respondent imposing the tax due from the petitioner on account of different in the Return filed by the petitioner in GSTR-3B and the auto populated Input Tax Credit in GSTR-2A.

3. The case of the petitioner is that the petitioner had imported timber from overseas customer and had paid IGST at the time of import.

4. It is submitted that since the supplier is not in the country and not a GST registered concern, there is no possibility for the form GSTR-2A, being generated on the tax paid by the petitioner under IGST.

5. It is submitted that the petitioner had, however, failed to respond to the notice in ASMT 10, dated 12.06.2023 and the show cause notice in GST DRC-01

dated 10.08.2023.

6. It is submitted that the petitioner also failed to respond to the personal hearing notice, dated 15.12.2023. Hence, the petitioner may be given one opportunity to explain the case.

7. That apart, the learned counsel for the petitioner submits that a sum of Rs.8,78,124/- (Rs.2,62,680/- + Rs.6,15,444/-) has been recovered by the respondent on 12.04.2024 towards IGST.

8. Having considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondent and considering the fact that there is no scope for auto population of the Input Tax Credit on IGST, the Court is inclined to come to rescue the petitioner by quashing the impugned order and remitting the case back to the respondent to pass fresh orders.

9. The impugned order, which stands quashed, shall be treated as addendum

to the show cause notice in GST DRC 01 dated 10.08.2023.

10. The petitioner shall filed reply to the show cause notice that preceded the impugned order within a period of 30 days from the date of receipt of a copy of this order. The respondent shall pass a fresh orders on merit and in accordance with law as expeditiously as possible preferably within a period of three months thereafter. Needless to state, before passing the order, the petitioner shall be heard.

11. Considering the fact that the petitioner's bank account has been attached and since the petitioner has a liberty to approach the respondent to pass fresh orders, there shall be an order of lifting the attachment of the bank account of the petitioner by the respondent.

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

Index : Yes / No
Internet : Yes / No
apd

02.07.2024

To
The State Tax Officer,
Tenkasi Assessment Circle,
Commercial Taxes Buildings,
Tenkasi.

C.SARAVANAN, J.

apd

W.P.(MD) No.14497 of 2024

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