



W.P.(MD) No.16167 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.16167 of 2020

Tvl.Mallow International,
represented by its Managing Partner,
R.Anand, aged about 47 years,
S/o.Ramadoss,
S.F.535, Salem Bypass Road,
Semmadai,
Karur 639 006.

... Petitioner

/vs./

1.The Commissioner of Commercial Taxes,
O/o. the Principal and Special Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai 600 005.

2.The Assistant Commissioner (ST),
Karur – 2, Assessment Circle,
Commercial Taxes Building,
North Pradakshnam Road,
Karur 639 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for records pertaining to the



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impugned refund sanction/rejection order No.ZB3309200729987 in Form GST RFD-06 dated 26.09.2020 and quash the same and to consequently direct the 2nd respondent to honor the claim of refund in full as claimed within a time frame as fixed by this Court.

For Petitioner : Mr.B.Rooban

For Respondents : Mr.J.K.Jeyaselan
Government Advocate

ORDER

The petitioner has filed this writ petition for a Certiorarified Mandamus to call for records pertaining to the impugned refund sanction/rejection order No.ZB3309200729987 in Form GST RFD-06 dated 26.09.2020, to quash the same and to direct the second respondent to honor the claim of refund in full as claimed.

2.The learned counsel for the petitioner would submit that for the subsequent period, the respondents have allowed the re-fund on the exports made by the petitioner, in the light of the clarification issued by the Principal Commissioner (GST) dated 17.07.2023 in Circular No.197/09/2023-GST. The



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learned counsel for the petitioner would refer to para No.3 of the aforesaid clarification, which reads as under:-

“3.Manner of calculation of Adjusted Total Turnover under sub-rule (4) of Rule 89 of CGST Rules consequent to Explanation inserted in sub-rule (4) of Rule 89 vide Notification No.14/2022-CT, dated 05.07.2022.

3.1. Doubts have been raised as regarding calculation of "adjusted total turnover" under sub-rule (4) of rule 89 of CGST Rules, in view of insertion of Explanation in sub-rule (4) of rule 89 of CGST Rules vide Notification No. 14/2022-Central Tax dated 05.07.0222. Clarification is being sought as to whether value of goods exported out of India has to be considered as per Explanation under sub-rule (4) of rule 89 of CGST Rules for the purpose of calculation of "adjusted total turnover" in the formula under the said sub-rule.

3.2. In this regard, it is mentioned that consequent to amendment in definition of the "Turnover of zero-rated supply of goods" vide Notification No. 16/2020-Central Tax dated 23.03.2020, Circular 147/03/2021-GST dated 12.03.2021 was issued which inter alia clarified that the same value of zero-rated/ export supply of goods, as calculated as per amended definition of "Turnover of zero-rated supply of goods", needs to be taken into consideration while calculating "turnover in a state or a union territory", and



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accordingly, in "adjusted total turnover" for the purpose of sub-rule (4) of Rule 89.

3.3. On similar lines, it is clarified that consequent to Explanation having been inserted in sub-rule (4) of rule 89 of CGST Rules vide Notification No. 14/2022-CT dated 05.07.2022, the value of goods exported out of India to be included while calculating "adjusted total turnover" will be same as being determined as per the Explanation inserted in the said sub-rule."

3.It is submitted that if the case is remanded back to the respondents to re-examine the issue afresh in the light of the above paragraph, the petitioner may succeed in getting the re-fund as has been allowed for the subsequent period.

4.The learned Government Advocate for the respondents on the other hand would submit that there is no merit in the submission. The learned Government Advocate has drawn the attention to Rule 89(4) of the Central Goods and Services Tax Rules, 2017 for determination of the turn over for the purpose of re-fund. He would further submit that as per Notification No.14/2022, Central Tax, an explanation has been inserted in the Central Goods and Services Tax Rules, 2017 and therefore, there is no merits in the challenge.



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5. Al though elaborate submissions have been made, considering the submissions made by the learned counsel for the petitioner that the issue can be re-examined in the light of the circular No 197/09/2023-GST, dated 17.07.2023, content of which has been extracted above, I am inclined to set aside the impugned order and remit the case back to the second respondent to pass orders afresh on merits and in accordance with law, in the light of the submissions made by the learned counsel for the petitioner and in the light of the paragraph 3 of the above circular. This exercise may be carried out by the second respondent within a period of 8 weeks from the date of receipt of a copy of this order.

6. Accordingly, this Writ Petition stands allowed. No costs.

Index : Yes / No
Internet : Yes / No
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C.SARAVANAN, J.

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