BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) No.15329 of 2024
and
W.M.P.(MD) No.13432 of 2024

M/S.City Hospital,
represented by its Partner
G.Ganesh Babu ... Petitioner

/vs./

The Deputy State Tax Officer-1,
Commercial Tax Building,
Aruppukottai. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records in Order Ref. No.ZD331123189903D dated 30/11/2023 issued by the Respondent and quash the same as wholly without jurisdiction and clear violation of statutory provisions.

For Petitioner : Mr.S.Karunakar

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

ORDER

Heard Mr.S.Karunakar, learned counsel for the petitioner and Mr.J.K.Jeyaselan, learned Government Advocate for the respondent.

2.The petitioner has filed this writ petition for a Certiorari to quash the order dated 30/11/2023 passed by the respondent bearing Ref.No.ZD331123189903D.

3.The petitioner appears to be a Hospital, which is rendering health services and therefore, there is exemption from payment of GST under Notification No. 12/2017 CT dated 28.06.2017.

4.It appears that the petitioner had purchased two wheelers and three wheelers for its staff. Since the returns filed by the vendor were reflected in GSTR 2A of the petitioner, the Department has concluded that the petitioner is required to reverse the input tax credit that was availed. It is the specific case of the petitioner that the petitioner is not liable to pay tax and therefore, there is no question of petitioner availing the input tax credit.

5.It is submitted that no return was filed, as the petitioner was not liable to pay tax at all.

6.Having considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondent, I am of the view that the impugned order deserves an interference in the hands of this Court under Article 226 of the Constitution of India, as there is a non application of mind. Since the petitioner has however not filed a reply to the notices that were issued to the petitioner, perhaps on account of the same, the impugned order has been passed mechanically by confirming the demand proposed in the notices issued to the petitioner.

7.Under these circumstances, the impugned order is quashed and the case is remitted back to the respondent to pass a fresh order on merits and in accordance with law subject to the petitioner giving a reply within a period of 30 days from the date of receipt of a copy of this order. The impugned order, which stands quashed, shall be treated as an addendum to the show cause notice. The respondent shall thereafter pass a fresh order on merits and in accordance with law within a period of 3 months. It is needless to state that the petitioner shall also be heard, before a fresh order is passed.

8.The Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
mm

10.07.2024

To

The Deputy State Tax Officer-1,
Commercial Tax Building,
Aruppukottai.

C.SARAVANAN, J.

mm

W.P.(MD) No.15329 of 2024

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