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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD)No.15022 of 2023
and
W.M.P(MD)No.12643 of 2023

Tvl.Sri Shanmuga Saw Mill,
Represented by its Partner,
S.Soundarapandian. ... Petitioner

Vs.

1.The Superintendent,
Office of the Superintendent of GST
& Central Excise,
Madurai North Range,
B.B.Kulam, Madurai.

2.The State Tax Officer,
Chokkikulam Assessment Circle,
Madurai. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for records pertaining to the impugned proceedings passed by the first respondent in Order No.GST-NEW TRAN 1-MDU II-SUPDT-NORTH RANGE-07/2023, O.C.No.199/2023, dated 27.02.2023 and quash the same as the same is illegal, arbitrary and passed by grossly violating the principles of natural justice and

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direct the second respondent to send the correct report to the first respondent after granting us an opportunity of personal hearing and based on the same the first respondent may be directed to pass order afresh in accordance with law and also to pass such further or other orders as this Court.

For Petitioner	:	Mr.Srinivasan
For Respondent	:	Mr.R.Nandhakumar Central Government Standing Counsel

ORDER

The present writ petition is filed challenging the impugned proceedings issued by the first respondent in Order No.GST-NEW TRAN 1-MDU II-SUPDT-NORTH RANGE-07/2023, O.C.No.199/2023, dated 27.02.2023.

2. The impugned order is challenged on the premise that the petitioner's claim of transitional credit made by filing a new TRAN-1 application, dated 28.10.2022 was rejected on the premise that the State Tax Officer, Chokikulam Assessment Circle, Madurai has submitted a report stating that, the claim of Input Tax Credit made by the petitioner under the new TRAN-1 is inadmissible. Personal hearing notice was issued to the petitioner on 23.02.2023.

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3. It is submitted by the learned Counsel for the petitioner that they were unable to appear on that day and requested for the hearing to be on 24.02.2023, which was orally agreed to by the respondent. However, no hearing was granted on 24.02.2023. The petitioner in the meanwhile, had submitted his objection on 27.02.2023, *inter alia* stating that the claim of ITC through TRAN-1 is in accordance with law and had also submitted that they are also enclosing the tax invoice copy in respect of their claim of Input Tax Credit under TRAN-1. The petitioner would further request for four weeks time to offer explanation in view of the fact that the petitioner's accountant was unwell. However, the impugned order has been passed confirming the proposal on the premise that in terms of circular No.182/14/2022-GST, dated 10.11.2022 and in particular, para No.5.3.8 of the said circular, the respondent authority was required to pass orders within a period of 90 days from 01.12.2022 and as such, the last date for passing orders is 28.02.2023. The respondent authority importantly had made a reference to the petitioner's reply, dated 27.02.2023. However, first respondent has not dealt with the petitioner's objection that the claim of TRAN-1 is supported by tax invoice. It is submitted that the impugned order thus suffers from non application of mind to the material on record.

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4. This Court finds that the respondent Authority has failed to apply his mind to the material on record before proceeding to pass orders, thereby, vitiating the order.

5. At this juncture, the learned Central Government Standing Counsel for the respondent would submit that the petitioner may appear before the first respondent on **30.09.2024** at 11.00 am., along with representation / reply and supporting document / material. If any such reply / document is filed, the same would be taken into account and fresh orders would be passed after affording an opportunity of hearing to the petitioner. If the petitioner fails to appear or submit his reply / objection, the order shall stand revived.

6. The writ petition stands disposed of, accordingly. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

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Index : Yes / No
Internet : Yes
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To

The Assistant Commissioner (ST),
Madurai Rural East Assessment Circle,
Commercial Taxes Buildings,
Dr.Thangaraj Salai Road,
Madurai-625 020.

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MOHAMMED SHAFFIQ, J.

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