BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2024

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.15835 of 2023
and
W.M.P.(MD).No.13426 of 2023

Tvl.Sri Nagalakshmi Stores,
Represented by its Proprietrix,
B.Visalakshmi. ... Petitioner

Vs.

1.The Commissioner of CGST and Central Excise,
O/o. The Commissioner of CGST and Central Excise,
Central Revenue Buildings,
Bibikulam,
Madurai - 625 002.

2.The Superintendent of CGST and Central Excise,
Palani I Range,
O/o.The Superintendent of CGST and Central Excise,
No.258, Dindigul Main Road, Sivagiripatti,
Palani, Dindigul District – 624 601. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for records pertaining to impugned proceeding of the 2nd respondent in DRC-07 Order-in Original No.MDU-GST-SP-05-2023 dated 31.03.2023 and quash the same.

For Petitioner : Mr.B.Rooban
For Respondents : Mr.R.Nandakumar
Senior Standing Counsel

ORDER

The present Writ Petition is filed challenging the impugned order dated 31.03.2023 on the premise that it suffers from error apparent on the face of record.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of retail and wholesale trade of chemicals. The petitioner has allegedly availed excess Input Tax Credit in respect of 'Inward supplies from Input Service Distributor (ISD)', which was not reflected in GSTR-3A. A show cause notice dated 30.12.2022 was thus issued on the premise that ISD have not properly distributed ITC by way of issuing an ISD invoice containing the amount of credit distributed in terms of Rule 54(1) of the CGST Rules. The above proposal also stood confirmed.

3. It was further submitted by the learned counsel for the petitioner that while filing GSTR-3B returns for the month of August 2017, the petitioner declared Input Tax Credit on their input purchases under the head 'Inward Supplies ISD' in Column Sl.No.4A(4) instead of 'All other ITC' in Column Sl.No.4A(5). It was thus submitted that the above error crept in view of the fact that the above return was the first return under GST which was a new tax

regime and the petitioner was not very familiar with the returns under the GST Act.

4. It is submitted by the learned Senior Standing Counsel for the respondents that the petitioner can avail appropriate remedy by way of rectification. The petitioner may submit an application for rectification of error under Section 161 of the CGST Act within a period of two weeks. If such an application is submitted, the same would be considered and orders would be passed in accordance with law after affording a reasonable opportunity of hearing to the petitioner, which was acceded to by the learned counsel for the petitioner.

5. In view thereof, the petitioner is permitted to file an application for rectification under Section 161 of the CGST Act within a period of two (2) weeks from the date of receipt of a copy of this order. If such application is filed within the above stipulated period, the same shall be considered by the respondents and orders shall be passed in accordance with law after affording a reasonable opportunity of hearing to the petitioner.

6. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

29.08.2024

Index : Yes / No
Internet : Yes/ No
Lm

To
1.The Commissioner of CGST and Central Excise,
O/o. The Commissioner of CGST and Central Excise,
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Bibikulam,
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2.The Superintendent of CGST and Central Excise,
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O/o.The Superintendent of CGST and Central Excise,
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Palani, Dindigul District – 624 601.

MOHAMMED SHAFFIQ, J.

Lm

W.P.(MD).No.15835 of 2023

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