BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.16234 of 2024
and
W.M.P.(MD)No.14107 of 2024

M/s.Seyad Trading Company.
Represented by its Partner S.Afzar Naina Mohamed ... Petitioner

Vs.

The Additional Commissioner of CGST & Central Excise,
O/o. the Additional Commissioner of CGST & C.Ex.,
No.7, Tractor Road, NGO 'A' Colony,
Tirunelveli. ... 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 in the impugned Order-in-Original No.08/ADC/GST/2024-25 dated 29.04.2024 issued by the respondent and quash the same is wholly without jurisdiction and clear violation of statutory provisions and direct the respondent to pass orders afresh by considering the replies filed by the petitioner after affording the opportunity of personal hearing.

For petitioner : Mr.S.Karunkar

For respondent : Mr.N.Dilip Kumar
Senior Standing Counsel

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ORDER

Heard learned counsel for the petitioner and learned Senior Standing Counsel for the respondent.

2. The petitioner is before this Court against the impugned order in Original No.08/ADC/GST/2024-25 dated 29.04.2024. The impugned order has been passed for the assessment years 2018-19 to 2020-21.

3. By the impugned order, the demand proposed in Show Cause Notice No. 33/ADC/GST/2023-24 has been confirmed. The operative portion of the impugned order reads as under:

ORDER

A. In respect of Central Goods and Services Tax Act, 2017;

i. I confirm an amount of **Rs.43,15,44,317/- (Rupees Forty Three Crores Fifteen Lakh Forty Four Thousand Three Hundred and Seventeen only)** being short payment of tax during the tax periods from June 2018 to March 2021, under Section 73(9) of CGST Act, 2017;

ii. I demand appropriate interest on the amount demanded in (i) above, under Section 50 read with Section 73 of the CGST Act, 2017;

iii. I impose penalty of **Rs.4,31,54,432/- (Rupees Four Crore Thirty One Lakh Fifty Four Thousand Four Hundred Thirty Two only)** under Section 73(9) read with Section 122(2)(a) of the CGST Act, 2017.

iv. I impose a penalty of **Rs.25,000/- (Twenty Five Thousand only)** under Section 125 of CGST Act, 2017 for transfer of goods for a value of Rs.2,87,27,883/- without e-way bills during 2019-20.

B. In respect of Tamil Nadu State Goods and Services Tax Act, 2017;

i. I confirm an amount of Rs.43,15,44,317/- (Rupees Forty Three Crores Fifteen Lakh Forty Four Thousand Three Hundred and Seventeen only) being short payment of tax during the tax periods from June 2018 to March 2021, under Section 73(9) of TNGST Act, 2017;

ii. I demand appropriate interest on the amount demanded in (i) above, under Section 50 read with Section 73 of the TNGST Act, 2017;

iii. I impose penalty of **Rs.4,31,54,432/- (Rupees Four Crore Thirty One Lakh Fifty Four Thousand Four Hundred Thirty Two only)** under Section 73(9) read with Section 122(2)(a) of the TNGST Act, 2017.

iv. I impose a penalty of **Rs.25,000/- (Twenty Five Thousand only)** under Section 125 of TNGST Act, 2017 for transfer of goods for a value of Rs.2,87,27,883/- without e-way bills during 2019-20.

4. The case of the petitioner is that the petitioner's replies have not been considered properly and that the impugned order has been passed in gross violation of the principles of natural justice as arbitrary award has been passed.

5. A perusal of the replies filed by the petitioner and the impugned order

indicate that there are several disputed questions involved and there is appearant application of mind, while passing the impugned order. The Court is not concerned with the decision made in the impugned order and it is only concerned with the decision making process under Article 226 of the Constitution of India. These are the matters, which are to be agitated by the petitioner before the Appellate Authority, under Section 107 of the respective GST enactment. There is no merits in the present Writ Petition.

Considering the same, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes / No
apd

23.07.2024

C.SARAVANAN, J.

apd

W.P.(MD) No.16234 of 2024

23.07.2024