BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.17087 of 2024
and
W.M.P.(MD)Nos.14695 & 14697 of 2024

Tvl.Thendral Motors,
Represented by its Partner Rajasekaran. ... Petitioner

Vs.

The Commercial Tax Officer,
O/o the Commercial Tax Officer,
No.126A, New no.46(1), Sengottai,
Kollam Main Road, Tenkasi,
Tirunelveli – 627 809. ... Respondent

<u>PRAYER:</u> Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records in GSTIN: 33AAFFT5037P1ZT/2018-19 dated 11.06.2024 on the file of the respondent and quash the same as illegal, error of law and error on the face of record and consequently direct the respondent to pass orders as per the law by providing an opportunity for personal hearing.

For petitioner : Mr.A.Thiyagarajan, Senior Counsel
for Mr.S.Karunakar
For respondent : Mr.R.Suresh Kumar
Additional Government Pleader
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ORDER

Heard learned Senior Counsel for the petitioner and learned Additional Government Pleader for the respondent.

2. The petitioner is before this Court against the impugned order passed by the respondent under Section 161 of the respective GST enactments declining the application filed by the petitioner to rectify the error in order dated 08.01.2024 for the assessment year 2018-19 bearing reference in GSTIN:33AAFFT5037P1ZT. Operative portion of the impugned order reads as under:

> *"The application is carefully perused and not accepted since section 161 of TNGST Act 2017/CGST Act 2017 is applicable only for rectification of error in the face of records. The taxpayer filed application for rectification, filing the documents which they already filed and rejection of the reply is already discussed in the adjudication order itself. This application for rectification is not fall in the purview of section 161 of TNGST Act 2017-CGST Act, 2017. Hence application for rectification of order is hereby rejected."*

3. The learned Senior Counsel for the petitioner has placed reliance on the decision rendered by this Court in ***W.P.(MD)No.13232 of 2024 dated 20.06.2024 in the case of Tvl.Podhigai Motors vs. The Assistant Commissioner (ST), Palayamkottai.***

4. It is submitted that under the similar circumstances, the order rejecting the rectification application was interfered as it was in non speaking nature.

5. The learned Additional Government Pleader for the respondent submits that this Writ Petition is devoid of merits as the petitioner has an alternative remedy before the Appellate Authority. There is no scope for rectification of the assessment order passed on 08.01.2024.

6. It is further submitted that the rectification application has been rightly rejected *vide* impugned order dated 11.06.2024.

7. Having considered the submissions of the learned Senior Counsel for the petitioner and the learned Additional Government Pleader for the respondent, the Court is of the view that as ordered in the case of ***Tvl.Podhigai Motors*** (cited supra), the order rejecting the rectification application should not have been passed without providing an opportunity for personal hearing. The impugned order also *sans* reasoning. In this case, both are absent.

8. Under these circumstances, the impugned order is set aside and the case is remitted back to the respondent to pass fresh orders on merits and in accordance with law after hearing the petitioner.

9. It is expected that the respondent will hear the petitioner and dispose of the rectification application filed by the petitioner within a period of three months from the date of receipt of a copy of this order after hearing the petitioner.

This Writ Petition is disposed of with above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

26.07.2024

To
The Commercial Tax Officer,
O/o the Commercial Tax Officer,
No.126A, New no.46(1), Sengottai,
Kollam Main Road, Tenkasi,
Tirunelveli – 627 809.

C.SARAVANAN, J.

apd

W.P.(MD) No.17087 of 2024

26.07.2024