BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2024

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)No.17867 of 2024
and
W.M.P.(MD)Nos.15326 and 15327 of 2024

Platinum Stones Private Limited,
Represented by its Managing Director
Manik Poddar,
No 42-2A and 2B, Sivagangai Road,
Senkottai, Madurai – 625 020. ... Petitioner

Vs.

The State Tax Officer,
Office of Joint Commissioner (State Tax)
Intelligence Survey Unit, Investigation, Madurai Intelligence,
Ground Floor, Commercial Taxes Building,
Dr.Thangaraj Salai, K.K.Nagar,
Madurai – 625 020. ... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari, to call for records from the file of the respondent in impugned Reference Number : ZD330124128144Z dated 26.01.2024 and Order for dropping the proceedings under Section 73 / 74 in Reference Number : ZD330124128144Z dated 28.01.2024 passed for F.Y.2022-23 and quash the same as illegal and violative of principles of natural justice.

For Petitioner : Mr.J.Narayanasamy
for Mr.B.Sivaraman

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

The petitioner is before this Court against the impugned order dated 26.01.2024 passed by the respondent for the Assessment Year 2022-2023.

2. By the impugned order, the respondent has confirmed the demand proposed as far as Defect No.2 on account of stock differences and dropped the penalty, as the petitioner has paid the amount on 19.12.2022.

3. The facts on record indicate that the petitioner's place of business was inspected on 15.12.2022 and 16.12.2022 and that two defects were pointed out, one for failure to maintain proper accounts and other for on account of the petitioner's inability to reconcile the stock difference. As far as the second defect on account of stock difference is concerned, the petitioner has paid a sum of Rs.4,52,746/- [Rs.2,26,373 [CGST] + Rs.2,26,373 [SGST]] on 19.12.2022.

4. In Form GST DRC – 03 at Column No.8, the petitioner has clearly stated that the above said amount was paid under protest for tax liability arrived in surprise inspection for stock difference noticed. Thus, the impugned order, which has been passed as if the petitioner has accepted the liability without considering the reply of the petitioner suffers from non-application of mind and is therefore, arbitrary. It is therefore liable to be quashed and the case be remitted back to the respondent to pass a fresh order after duly considering the petitioner's replies / objections, dated 24.07.2023 and 22.10.2023.

5. In view of the above, the impugned order dated 26.01.2024 stands quashed and the case is remitted back to the respondent to pass a fresh order. The impugned order which stands quashed in this order shall be treated as Addendum to the show cause notices already issued to the petitioner. The petitioner shall file a consolidated reply within a period of 30 days from today. The respondent shall thereafter proceed to pass final orders on merits, preferably, within a period of two months.

6. This Writ Petition stands disposed of the with the above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes/ No **30.07.2024**
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
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To

The State Tax Officer,
Office of Joint Commissioner (State Tax)
Intelligence Survey Unit, Investigation, Madurai Intelligence,
Ground Floor, Commercial Taxes Building,
Dr.Thangaraj Salai, K.K.Nagar,
Madurai – 625 020.

C.SARAVANAN, J.

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W.P.(MD) No.17867 of 2024

30.07.2024