BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD)No.22111 of 2024
and
W.M.P(MD)No.18723 of 2024

M/s.Nagammal Mills Private Limited,
Represented by its Authorised Signatory,
A.Sankar,
GSTIN 33AAACN6399N1ZV,
1083, M.S.Road,
Vetturnimadam,
Nagercoil-629 003. ... Petitioner

Vs.

The State Tax Officer,
Nagercoil-2 Assessment Circle,
Commercial Taxes Buildings,
Nagercoil. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in GSTIN 33AAACN6399N1ZV/2018-19, dated 30.04.2024 and to quash the same as illegal, arbitrary, wholly without jurisdiction and direct the respondent to issue notice to the petitioner then pass an assessment order afresh after considering the reply and records filed by the petition on 31.01.2024 after affording opportunity of personal hearing within such time as may be directed by this Court or pass such further or other orders as this Court.

For Petitioner : Mr.N.Sudalai Muthu

For Respondents : Mr.J.K.Jayaselan
Government Advocate

ORDER

The present writ petition has been filed challenging the impugned proceedings, dated 30.04.2024, wherein, the following defects were noticed:

"1. Short reporting of turnover noticed in outward supplies,

2. Credit note received. But ITC not reversed,

3. Misclassification on reporting exempted turnover in GST returns,

4. Difference shown in inward supplies liable to be reverse charge basis,

5. Reversal of Input Tax Credit on exempted supplies,

6. Non-payment of tax on inward supplies liable to be reverse charge basis,

7. Blocked credit under Section 17(5) of the Act, 2017,

8. Short reporting of turnover noticed in outward supplies with respect to sales register,

9. Non-payment of tax on certain expenses,

10. Non-payment of tax on certain expenses under the RCM and

11. Non-payment of tax on disposal of asset."

2. It is submitted by the learned Counsel for the petitioner that the petitioner had submitted a manual reply on 31.01.2024 and had also appeared for personal hearing. However, the impugned order has been passed without even considering any of the objections and the submissions made during the course of the personal hearing. It is also submitted by the learned Counsel for the petitioner that consequent to the impugned orders of assessment, a sum of Rs.28,71,339/- has been collected as against the total demand of taxes of Rs.58,31,548/- tax portion, which is more than 48% of the disputed taxes. It was also submitted that the impugned order suffers from gross violation of the principles of natural justice.

3. The learned Government Advocate for the respondent would submit that the petitioner is expected to submit its objections in the web portal and there are difficulties in taking manual objections into account. However, he would agree that the submissions made during the course of the personal hearing ought to have been considered.

4. In view thereof, this Court is of the view that the failure of the respondent authorities in considering the submissions made during the course of the personal hearing would vitiate the impugned proceedings and also taking into account that more than 48% have already been remitted, the matters shall be considered afresh after granting the petitioner an opportunity of hearing. The petitioner is permitted to upload its objection in the web portal.

5. At this juncture, the learned Government Advocate for the respondent would submit that the access to web portal would be provided to enable the petitioner to upload its objection, within a period of two weeks from the date of receipt of a copy of this order. Once the reply is uploaded, an opportunity of personal hearing would also be granted to the petitioner. No further recovery will be made until the assessment orders are redone.

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

18.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

The State Tax Officer,
Nagercoil-2 Assessment Circle,
Commercial Taxes Buildings,
Nagercoil.

MOHAMMED SHAFFIQ, J.

BTR

W.P(MD)No.22111 of 2024

18.09.2024