BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2024

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.23725 of 2024
and
W.M.P.(MD).No.20091 of 2024

M/s.Tildenet,
Represented by its Partner,
K.R.Kannan. ... Petitioner

Vs.

1.The Principal Chief Commissioner of
GST and Central Excise,
26/1, GST Bhawan,
Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034.

2.The Deputy Commissioner of Customs,
Office of the Commissioner of Customs,
Chennai - IV, 60, Customs House,
Rajaji Salai, Chennai - 600 001.

3.The Additional Commissioner of
GST and Central Excise,
No.1, Williams Road,
Cantonment,
Tiruchirappalli - 620 001.

4.The Superintendent of Central GST
and Central Excise, Range-II,
Karur Division. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to impugned order dated 02.09.2024 made in F.No.GEXCOM/ADJN/5983/2024-CGST-RANGE-KRR2 on the file of 4th respondent and quash the same.

For Petitioner	:	Mr.N.Shanmuga Selvam
For Respondents	:	Mr.N.Dilipkumar Senior Standing Counsel

ORDER

The present Writ Petition is filed challenging the show cause notice dated 02.09.2024, whereby, it was proposed to recover the erroneous refund of IGST availed in contravention of Rule 96(10) of the CGST Rules, 2017 and also proposed to levy interest and penalty under Section 50 and 122(2)(b) of the CGST Act, 2017.

2. The primary ground of challenge is that the impugned proceedings itself is barred by limitation and thus, the same is without jurisdiction and nullity. It is submitted by the learned counsel for the petitioner that the petitioner's objection dated 19.07.2024, in response to the intimation dated 10.07.2024, has not been considered while proceeding to issue the impugned show cause notice, as evident from the fact there is not even a reference to the same in the show cause notice, which, according to the petitioner, would reflect that the respondents have pre-determined the issue.

3. To the contrary, it is submitted by the learned Senior Standing Counsel for the respondents that challenge at the stage of show cause notice is premature and that the show cause notice itself would indicate that it is open to the petitioner to let in evidence and file written submission and also request for personal hearing, if so desired. It was submitted that if the petitioner avails of the opportunity provided in the show cause notice, the Adjudicating Authority would consider the reply dated 19.07.2024 and any other material/objection or submissions that may be made during personal hearing and orders would be passed in accordance with law.

4. In view of the same, it is open to the petitioner to avail the opportunity provided in the show cause notice and file written submissions/objection/reply and request for personal hearing, if so desired. The respondents/Adjudicating Authority shall consider the petitioner's reply dated 19.07.2024 and any other material/objection or submissions that may be made during personal hearing and pass orders in accordance with law after affording a reasonable opportunity of hearing to the petitioner. It is made clear that the respondents/authority shall proceed to decide the issue independently and in accordance with law.

5. With the above observations, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

14.10.2024

Index : Yes / No
Internet : Yes/ No
Lm

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Karur Division.

MOHAMMED SHAFFIQ, J.

Lm

W.P.(MD).No.23725 of 2024

14.10.2024