BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.10.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.24926 of 2024
and
W.M.P.(MD)Nos.21209 and 21213 of 2024

Syed Mohamed Pattani,
Proprietor,
Tvl.Sitheek Fertilizer Shop ... Petitioner

Vs.

The Deputy State Tax Officer,
Sengottai Assessment Circle,
Office of the State Tax Officer,
Sengottai,
126A/New.No.43/1,
Sengottai-Kollam Main Road,
Tamil Nadu – 627 809. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records on the file of the respondent in GSTIN: 33DSUPS8286M2ZE/20/1/2019-20 dated 27.08.2024 and quash the same.

For Petitioner : Mr.P.M.Vishnu Varthanan

For Respondent : Mr.J.K.Jayaseelan
Government Advocate

O R D E R

The present Writ Petition is filed challenging the order dated 27.08.2024 on the ground that the same is made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in supply of fertilizers and is a registered dealer under GST. The petitioner had filed its returns and paid appropriate taxes. It was found on examination that there were discrepancies between GSTR-3B, GSTR-1, GSTR-2A and e-way bills. It was also found that the petitioners had claimed Input Tax Credit in respect of supplies from dealers whose registration certificate certificate has been cancelled, who has failed to file its returns and who had not remitted taxes. A show cause notice dated 24.05.2024 was issued to which a reply was filed by the petitioner vide response dated 29.07.2024. Thereafter personal hearing notices were issued calling upon the petitioner to appear for personal hearing on 12.07.2024, 16.08.2024 and 14.08.2024. Thereafter, impugned order is passed on the basis that though the petitioner had filed its reply had not submitted relevant documents in support of his claim.

3. It is trite law that adequacy or inadequacy, sufficiency or insufficiency of evidence is not something which could be examined under Article 226 of Constitution, more so, when there is effective alternate remedy by way of an appeal.

4. At this juncture, the learned counsel for the petitioner would submit that the petitioner may be granted liberty to avail statutory remedy under Section 107 of the GST Act and the same is not objected to by the learned Government Advocate.

5. In view thereof, this Writ Petition stands dismissed. However, it is open to the petitioner to avail statutory remedy under Section 107 of the Act in compliance with the conditions set out therein. No costs. Consequently, connected miscellaneous petitions are closed.

22.10.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

<u>Note: (i) Registry is directed to return the original impugned order to the</u>

learned counsel for the petitioner.
(ii) Issue Order Copy on 23.10.2024.

To:

The Deputy State Tax Officer,
Sengottai Assessment Circle,
Office of the State Tax Officer,
Sengottai,
126A/New.No.43/1,
Sengottai-Kollam Main Road,
Tamil Nadu – 627 809.

MOHAMMED SHAFFIQ, J.

Nsr

W.P.(MD)No.24926 of 2024

22.10.2024