BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2024

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)No.27252 of 2024
and
W.M.P(MD)Nos.23062 to 23064 of 2024

M/s.Ayappa Pharma,
Rep. by its Managing Partner,
M.S.M.Mohan,
S/o.Marudhaiahpilai,
No.54/47, Pasupathi Layout,
Chinnandan Koil Road,
Karur, Karur District – 639 001. ... Petitioner

Vs

1.The Deputy State Tax Officer,
Karur -2,
Karur District.

2.The Assistant Commissioner(ST),
1st Floor, Commercial Taxes Building,
North Pradhalakshnam Road,
Karur – 639 001.

3.The Branch Manager,
Karur Vysya Bank,
No.17, Dr.Varadarajan Street,
Vedachalam Nagar, Chengalpattu – 603 001. ...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, to call for the records of the impugned Order in FORM GST DRC-07 in reference bearing GSTIN – 33ABJFA9990R1ZG, dated

02.01.2024 passed by the 1st respondent and order of rejection of Application for rectification bearing reference GSTIN-33ABJFA9990R1ZG, dated 04.06.2024 passed by the 1st Respondent, the order of Bank Attachment in FORM GST DRC - 13 dated 23.09.2024 passed by the 2nd respondent and quash the same.

For Petitioner : Mr.E.Sathiyaraj

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader
for R1 & R2

ORDER

The challenge to the writ petition is the order of assessment and the DRC-07 notice and the order passed in the rectification application.

2.The learned Counsel appearing for the writ petitioner would submit that the order of assessment, dated 02.01.2024 had been made without giving opportunity to the petitioner based upon which the notice of DRC-07 was issued. Thereafter, the petitioner had taken an application for rectification of the error that had been committed by the petitioner to file the assessment and the same had been rejected without affording an opportunity and much more without assigning any reason, whatsoever.

3.The learned Standing Counsel appearing for the department would vehemently contend that the petitioner having filed the rectification application seeking to rectify the earlier order, dated 02.01.2024, the writ petition challenging the same ought not to have entertained.

4.The authority is vested with the power to reject the rectification application, if the reason stated in the rectification application, is not satisfactory and the first respondent had rightly rejected the rectification application and therefore, there is no indulgence may be shown to the petitioner in the present case.

5.I have carefully considered the submission made on either side and perused the materials available on record.

6.Considering the fact that no reasons whatsoever have been assigned except to make the statement that no satisfactorily reasons attached to the annexure had been made out, the first respondent had not given any reasons. Section 161 of the TNGST Act indicates that when such an application is made and if no error on the face of record had been made out to the applications for rejection are to be rejected.

7.In the present case, the petitioner has pointed out an error in his return, which he seeks to rectify for passing the revised order of assessment. The said reasons had not been considered by the first respondent and therefore, the impugned order dated 04.06.2024 rejecting the application of the writ petitioner for rectification alone is hereby set aside and remitted back to the first respondent for passing a fresh order after considering the reasons and pass appropriate orders. If the authorities decide not to entertain the said request, he shall give detailed reasons as to why the said order is being made. Further proceedings, pursuant to DRC- O7 notice dated 02.01.2024 shall be kept in abeyance.

8.The leaned Counsel for the petitioner seeks an opportunity of hearing before the first respondent, since proviso also provides such personal hearing, the first respondent shall also provide an opportunity to the petitioner. The said exercise shall be completed by the petitioner within a period six weeks from the date of receipt of a copy of this order.

9.With the above said observations, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

14.11.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
RJR

To

1.The Deputy State Tax Officer,
Karur -2,
Karur District.

2.The Assistant Commissioner(ST),
1st Floor, Commercial Taxes Building,
North Pradhalakshnam Road,
Karur – 639 001.

K.KUMARESH BABU, J.

RJR

W.P.(MD)No.27252 of 2024

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