IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.193 of 2025
and
W.M.P.Nos.206 and 207 of 2025

Tvl.M.Selvam,
No.94, Dr.Selvi Jeya Kumar Street,
Golden George Nagar, Chennai,
Tamil Nadu 600 107. ... Petitioner

Vs.

The State Tax Officer (ST),
Krishnagiri-1 Assessment Circle,
Krishnagiri, Tamil Nadu. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records on the files of the respondent in FORM GST DRC-07 with Reference No:ZD3308241546936 dated 19.08.2024 along with detailed order in GSTIN:33ALMPS1579F1ZT/2019-20 dated 19.08.2024 and quash the same.

For Petitioner : Mr.K.A.Parthasarathy

For Respondent : Mr.C.Harsha Raj,
Additional Government Pleader.

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 19.08.2024 on the premise that the petitioner had not submitted its reply when, in fact, the petitioner had submitted its replies on 29.06.2024 and 11.07.2024 in response to the notice in DRC-01 dated 30.05.2024. Importantly, the filing of the above replies was also duly acknowledged, it was thus submitted that the impugned order suffers from non-application of mind to the material on record.

2. The petitioner is a Civil Works Contractor and is registered under the Goods and Services Tax Act, 2017. During the relevant period of 2019-20, the petitioner filed its returns and paid the appropriate taxes. However, on examination of the information furnished in GSTR-3B, GSTR-01, GSTR-2A, EWB and other records available, it was noticed that there was an Excess Claim of Input Tax Credit.

2.1. Pursuant thereto, a Show Cause Notice in DRC-01 was issued on 20.05.2024, followed by reminder on 10.07.2024. Personal hearings were offered on 31.07.2024 and 07.08.2024. In response to the Show Cause Notice, the petitioner had filed its replies on 29.06.2024 and 11.07.2024 providing a detailed explanation for the alleged discrepancies. However, the impugned order proceeds on the premise that the petitioner had not filed any objection nor attended the personal hearing which, according to the petitioner, suffers from non-application of mind.

3. The learned counsel for the respondent would submit that they would redo the assessment taking into account the replies dated 29.06.2024 and 11.07.2024 and the materials already on record including the documents filed in support thereof, which was agreed to by the learned counsel for the petitioner, who sought liberty to file an additional reply / documents if need arises.

4. In view thereof, the impugned order dated 19.08.2024 is set aside. The petitioner, in addition to the reply already filed, may submit its objections within a period of two weeks from the date of receipt of a copy of this order. If any representation / reply is filed within the stipulated period as stated supra, the same shall be considered by the respondent and orders shall be passed in accordance with law, after affording the petitioner a reasonable opportunity of hearing.

5. Accordingly, the writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

07.01.2025

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
shk

To:

The State Tax Officer (ST),
Krishnagiri-1 Assessment Circle,
Krishnagiri, Tamil Nadu.

MOHAMMED SHAFFIQ, J.

shk

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