IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.06.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.5318 of 2025
and
W.M.P.No.5895 of 2025

Tvl S D Promoters
REPRESENTED BY ITS PARTNER
MR RAMASAMY VENKATACHALAM
1-6-18-5 ii FLOOR MARUTHI PLAZA
SALEM MAIN ROAD SANKARI
SALEM 637 301 ..Petitioner

Vs

THE DEPUTY STATE TAX OFFICER
SANKARI ASSESSMENT CIRCLE
1ST FLOOR TIRUCHENGODE ROAD
RDO COMPLEX SANKARI 637 301. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the impugned show cause notice in Form GST DRC-01 dated 25/11/2024 having Reference No.ZD331124203123A for the tax period from April 2020 to March 2021 issued by the Respondent and quash the same insofar as it relates to the issue of difference in input tax credit of CGST and SGST between Form GSTR-3B and Form GSTR-2A arising on account of the error committed by the petitioner's GST consultant in splitting input tax credit of IGST into CGST and SGST and direct the respondent to take cognizance of the input tax credit available in Form GSTR-2A as input tax credit availed by the petitioner for the F.Y 2020-21.

For Petitioner : Mr.S.Anandh

For Respondent : Mr.V.Prashanth Kiran
Government Advocate (T)

Order

The challenge in this Writ Petition is to the show cause notice issued by the respondent in Form GST DRC-01 dated 25/11/2024 and quash the same.

2. Mr.S.Anandh, the learned counsel appearing for the petitioner would submit that the respondent has issued the impugned show cause notice alleging that there is excess claim of ITC of CGST and SGST Act in Form GSTR-3B when compared with ITC of CGST and SGST available in Form GSTR-2A, but according to the petitioner the issue of difference in input tax credit of CGST and SGST between Form GSTR-3B and Form GSTR-2A arises on account of the error committed by the petitioner's GST consultant in splitting the input tax credit of IGST into CGST and SGST and hence, sought for a direction to the respondent to take cognizance of the input tax credit available in Form GSTR-2A as input tax credit availed by the petitioner for the F.Y 2020-21.

3. Mr.V.Prashanth Kiran, learned Government Advocate for the respondent submits that the challenge made in this Writ Petition is to the show cause notice issued by the respondent dated 25.11.2024, to which, the petitioner can file their reply and express their contention before the respondent during the personal hearing, based on which, appropriate decision would be taken by the respondent in accordance with law, and hence, prays for dismissal of the Writ Petition.

4. Taking into consideration of the submissions made on either side and on perusal of the materials available on record, this Court is of the view that the Writ Petition is premature in nature, since the matter is only at the stage of show cause notice and as rightly pointed out by the learned Government Advocate for the respondent, the petitioner can very well file their reply along with supportive documents and offer their explanation before the respondent/Authority. Further, this Court would like to point out herein that when a show cause notice is issued, the petitioner is expected to file reply/objection and without responding to the show cause notice and exhausting the available remedies, is not entitled to seek judicial intervention, inasmuch as, a Writ Petition challenging the show cause notice is not maintainable. Therefore, this Court is not inclined to entertain the Writ Petition.

5. Accordingly, the Writ Petition is dismissed, however, liberty is granted to the petitioner to file a reply to the show cause notice that is impugned herein within a period of three weeks from the date of receipt of a copy of this order and the same shall be considered by the respondent and an appropriate orders/decision shall be passed/made in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

10.06.2025

sd
Index : yes/no
Neutral Citation : yes/no

To
THE DEPUTY STATE TAX OFFICER
SANKARI ASSESSMENT CIRCLE
1ST FLOOR TIRUCHENGODE ROAD
RDO COMPLEX SANKARI 637 301

Krishnan Ramasamy,J.,

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