IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.31354 & 6610 of 2023
& W.M.P.Nos.30978 & 6677 of 2023

M/s.Tripath Logistics Private Limited,
Rep by its Authorized Signatory,
Mr.Srikara B Tanthi,
Old No.1543, New No.319, 4th Floor,
Shaw Wallace Buildings, Thambu Chetty Street,
Chennai 600 001

... Petitioner in both petitions

Vs.

1.The Assistant Commissioner,
Circle IV GST and Central Excise Audit I,
Commissionerate No.1775,
Jawaharlal Nehru Inner Ring Road,
Anna Nagar Western Extn,
Chennai 601 101

2.The Assistant Commissioner of Central Excise and GST,
Egmore Division, Chennai North Commissionerate,
Newry Towers, No.2054, I Block, II Avenue,
12th Main Road, Anna Nagar, Chennai 600 040

... Respondents in both petitions

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the show cause notice No.354-2023-24 in File No.GADT/CnG/ADT/GST/ 148-2022-GR-1-CGST-ADTCIR1-ADT1-CHE dated 19.09.2023 issued by the 1st respondent and the Report issued vide Form GST ADT-02 bearing reference number C No.GADT/ CnG/ ADT/ 152/ 2022-GR 3-CGST- ADT-CIR 4- ADT I- Chennai dated 31.01.2023 passed by the 1st respondent and quash the same.

For Petitioner in both petitions	:	Mr.Raghav Rajeev
For Respondent in both petitions	:	Mr.Sai Srujan Tayi, SPC, & Ms.Pooja Jain, JPC

COMMON ORDER

These writ petitions have been filed against the impugned show cause notice dated 19.09.2023 and the impugned Audit Report dated 31.01.2023.

2. The learned counsel for the petitioner would submit that in this case, the Audit Memo was issued on 09.11.2022, wherein the petitioner was directed to furnish their reply within a period of two working days. Subsequently, the respondent had finalized the draft Audit report on 14.11.2022, which was approved in Monthly Audit Monitoring Committed Meeting held on 29.11.2022. Thereafter, the tax payer/petitioner had furnished their reply on 25.11.2022, 05.12.2022, 07.01.2023 & 09.01.2023. Without considering the said replies, the 1st respondent had issued the impugned Audit Report in Form GST ADT-02 on 31.01.2023, whereby they demanded a sum of Rs.3,98,78,666/-, along with appropriate interest, from the petitioner. Subsequently, the impugned show cause notice dated 19.09.2023 was issued by the respondent in violation of principles of natural justice. Hence, he requests this Court to quash both the aforesaid Audit Report and show cause notice.

3. In reply, the learned Senior Panel counsel appearing for the respondent would submit that in this case, the replies filed by the

petitioner were liable to be rejected. Hence, he would suggest that if there is any grievance, the same shall be addressed by the petitioner by way of filing their reply to the impugned show cause notice issued by the 1st respondent. Hence, he requests this Court to pass appropriate orders.

4. Heard the learned counsel for the petitioner and the learned Senior Panel counsel appearing for the respondent and also perused the material available on record.

5. In the case on hand, the Audit Memo was issued on 09.11.2022, wherein the petitioner was directed to furnish their reply within a period of two working days. However, the petitioner was not in a position to file their reply within time. Subsequently, the respondent had finalized the draft Audit report on 14.11.2022. In such case, it is an admitted fact that the reply was not at all considered by the respondent while passing the draft Audit Report.

6. In view of the above, it is clear that the reply was not filed by the petitioner before preparing the draft Audit Report. However, it is not that the petitioner had once for all lost his opportunity of filing their reply. As suggested by the learned Senior Panel counsel, the petitioner can very well address all his grievances by way of filing a reply to the impugned show cause notice. In such view of the matter, this Court passes the following order:

> i) The petitioner is granted liberty to file their reply to the impugned show cause notice dated 19.09.2023 within a period of 4 weeks from the date of receipt of a copy of this order.
>
> ii) Upon receipt of the said reply, the respondent shall independently consider the reply filed by the petitioner, on its own merits and pass orders in accordance with law, after providing sufficient opportunities to the petitioner, as expeditiously as possible.

7. With the above directions, these writ petitions are disposed of. No cost. Consequently, the connected miscellaneous petitions are also closed.

02.04.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

To

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