IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.03.2025

CORAM

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.37068 of 2024
and W.M.P.No.40052 of 2024

M/s.Shakthi Enterprises,
Rep. by its Proprietor Mr.Ganesh Kumar,
No.14, Krishna Street, Gandhi Nagar,
Kodungaiyur, Chennai – 600 118.
GSTIN:33AEQPG5384P1ZS .. Petitioner

Vs.

1.Commercial Tax Officer,
Kodungaiyur Assessment Circle,
Integrated Commercial Taxes Complex,
Station:32, Elephant Gate Road,
Chennai – 600 003.

2.The Branch Manager,
DBS Bank India Limited,
No.86, Sundararaja Perumal Koil Street,
Perambur, Chennai – 600 082. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorari, to call for the records pertaining to the impugned order of demand vide DRC-07 bearing Reference No.ZD331223267582I dated 29.12.2023 passed by the 1st respondent for the

Financial Year 2017-18 and quash the same is illegal, invalid without jurisdiction and violated the principles of natural justice.

For Petitioner : Mr.J.Arun Kumar

For R 1 : Ms.Amirta Poonkodi Dinakaran
Government Advocate (Taxes)

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the records pertaining to the impugned order of demand vide DRC-07 bearing Reference No.ZD3312232675821 dated 29.12.2023 passed by the 1st respondent for the Financial Year 2017-18 and quash the same.

2.Learned counsel for the petitioner would submit that, initially, the respondent issued notice in ASMT-10 on 08.05.2023 citing short payment of taxes and excess claim of Input Tax Credit under Section 61 of the Central Goods and Services Act, 2017. Immediately upon the receipt of the said notice, the petitioner filed reply on 03.06.2023, explaining that the difference of Rs.13,50,099/-, which was wrongly claimed ITC, had already been reversed in the GSTR 3B return filed on 10.11.2018. Despite the reply given by the petitioner, the 1st respondent issued show cause notice in DRC-

01 on 16.09.2023. In response, the petitioner submitted a detailed reply on 14.10.2023, reiterating that the reversal was made in October 2018, within the statutory time limit prescribed under Section 16(4) of the Central Goods and Services Act, 2017, which permits the reversal of rectification of ITC claims until the end of the financial year or the date of filing the annual return, whichever is earlier. However, the 1st respondent had passed the impugned order on 29.12.2023 creating a demand of Rs.13,50,099/- without considering the reply submitted by the petitioner with non-application of mind and without providing an opportunity of personal hearing. Hence, the present writ petition has been filed.

3.Ms.Amirta Poonkodi Dinakaran, learned Government Advocate appearing for the 1st respondent would fairly submit that the petitioner has reversed the wrongly claimed ITC well before the statutory time limit prescribed under Section16(4) of the Central Goods and Services Tax Act, 2017. However, without asertaining the detailed provided by the petitioner, the impugned order came to be passed.

4.Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the 1st respondent and perused the materials available on record.

5.Upon hearing and perusal of the records, it is evident that the petitioner has inadvertendly entered the taxable value of Rs.13,50,099/- as an ITC under the Integrated Goods and Services Tax column, resulting in an incorrect declaration. Upon realizing the error, the petitioner rectified the mistake by reversing the wrongly claimed ITC in October 2018 before the end of the financial year as per Section 16(4) of the Central Goods and Services Act. Though the petitioner had given detailed explantion in this regard, without considering this aspect, the 1st respondent has issued show cause notice and the consequential impugned order with non-application of mind. When the petitioner has rectified the error within the statutory time limit, the question of issuing show cause notice does not arise at all and hence, the show cause notice dated 16.09.2023 and the impugned order dated 29.12.2023 are not sustainable.

6.In view of the above, the impugned order dated 29.12.2023 passed by the 1st respondent in Reference No.ZD331223267582I for the Financial Year 2017-2018 is hereby set aside and hence, the writ petition stands allowed. There is no order as to costs. Consequently, the connected miscellaneous petition is closed.

13.03.2025

rst

Index : Yes/No
Internet: Yes/No
Speaking/Non-Speaking Order

To:

Commercial Tax Officer,
Kodungaiyur Assessment Circle,
Integrated Commercial Taxes Complex,
Station:32, Elephant Gate Road,
Chennai – 600 003.

KRISHNAN RAMASAMY, J.

rst

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