IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.39438 of 2024
and
W.M.P.Nos.42701 and 42702 of 2024

M/s.Ramlax Industries,
Represented by M.S.Venkatakrishnan,
Partner,
Sidco Plot, No.7A, 7B, 7C, 7D & 7E,
Sidco Industrial Estate,
Mettur Dam 636 402. ... Petitioner

Vs.

The Assistant Commissioner (ST) (FAC)
Mettur Assessment Circle,
Mettur. ... 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 GSTIN:33AAJFR1990F1Z6/2019-20 dated 29.08.2024 and quash the same as violative of principles of natural justice and hence invalid and illegal.

For Petitioner : Mr.V.Srikanth

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

ORDER

The writ petition is filed challenging the impugned order dated 29.08.2024 on the premise that the impugned order proceeds on reasons that are new and different from those set out in the Show Cause Notice. That apart, the impugned order is also challenged on the premise that the reply filed by the petitioner has not been considered and that the impugned suffers from vice of being non-speaking order.

2. The petitioner is engaged in the business of supply of Magnesium Sulphate and is registered under the Goods and Services Tax Act, 2017. During the relevant period viz., 2019-20, the petitioner filed its returns and paid the appropriate taxes. However, on verification of the petitioner's return, the following discrepancies were noticed viz.,

i. Mismatch between GSTR-2A and GSTR-3B

ii.Blocked Credit

iii.Wrong availment of Input Tax Credit

iv.Eway Bill Mismatch

2.1. Pursuant thereto, a Show Cause Notice in DRC-01 was issued on 06.05.2024, followed by reminders on 19.07.2024 and 09.08.2024. Personal hearings were offered on 25.07.2024 and 14.08.2024. In response, the petitioner had filed detailed replies on 05.06.2024 and 13.08.2024 providing explanations for the alleged discrepancies. Subsequently, the petitioner was instructed to submit the Bank Statement and Profit and Loss account for the financial year 2019-20. On verification, it was noticed that there was mismatch between the bank statement and GSTR-3B. The alleged difference was sought to be treated as suppression and taxes were levied accordingly. The replies were rejected and the impugned order came to be passed, confirming the proposal.

3. It is case of the petitioner that the there was never any proposal in the notice to treat the difference between the bank statement and the GSTR-3B as constituting a supply thereby, denying the petitioner an opportunity to put forth their objections. It is also the case of the petitioner that insofar as the alleged discrepancies between GSTR-2A and GSTR-3B, the petitioner had, in fact, reconciled the discrepancies and had already discharged a portion of the alleged difference. With regard to the availment of Input Tax Credit, which was stated to have been claimed contrary to the embargo under Section 17(5) of the Central Goods and Services Tax Act, 2017, the petitioner submitted detailed replies on 05.06.2024 and 13.08.2024. However, the impugned order

is passed without dealing with those replies except to state that the petitioner is not entitled to avail the Input Tax Credit in view of Section 17(5) of the Central Goods and Services Tax Act, 2017. It was thus submitted by the learned counsel for the petitioner that the impugned order suffers from the following infirmities viz.,

a) the impugned order is non-speaking

b) traverses beyond the set out in the Show Cause Notice

c) non-application of mind to the material on record.

4. The learned counsel for the respondent would submit that they would redo the assessment.

5. In view thereof, the impugned order dated 29.08.2024 is set aside. The petitioner, in addition to the reply already filed, may submit its objections within a period of four 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.

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

03.01.2025

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

MOHAMMED SHAFFIQ, J.

shk

To:

The Assistant Commissioner (ST) (FAC)
Mettur Assessment Circle,
Mettur.

W.P. No.39438 of 2024
and
W.M.P.Nos.42701 and 42702 of 2024

03.01.2025