



WEB COPY



W.P.No.19671 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.19671 of 2024 &
W.M.P.Nos.21534 & 21535 of 2024

M/s.ELLA TEA INDUSTRY,
Rep. by its Proprietor, Nalini Pearline Thilak,
At No.20/29, Donnington Road,
Kotagiri, The Nilgiris - 643 217. ... Petitioner

Vs.

The Deputy State Tax Officer-I,
Kotagiri Assessment Circle,
The Nilgiris. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the respondent in GSTIN:33ABMPT9256G1Z5/2018-2019, dated 29.04.2024 for the period 2018-19 and quash the same and direct the respondent to pass afresh after considering the reply submitted by the petitioner.

For Petitioner : Mr.J.Bharathiraja

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)



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ORDER

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By consent, this writ petition is taken up for disposal at the stage of admission itself.

2. According to the petitioner, they are engaged in the Tea Industry and are a registered dealer under the Tamil Nadu Goods and Services Tax (TNGST) Act. Upon scrutiny under Section 61 of the Act, for the year 2018-2019, the respondent found some discrepancies in the petitioner's tax return and issued a show cause notice dated 25.11.2021, stating that the petitioner company had not declared its correct tax liability, while filing GSTR-3B for the said period and had claimed excess Input Tax Credit (ITC) than what was available in the inward data. Upon receipt of the same, the petitioner submitted its reply on 19.12.2022 with supporting documents, and the respondent, being satisfied with the explanation provided, dropped further proceedings against the petitioner vide order dated 03.01.2023.

3. It is further stated by the petitioner that despite the closure of the matter on previous occasion, the respondent issued another show cause notice on 28.12.2023, alleging that the petitioner had availed excess ITC for the same year 2018-2019, and was required to reverse the same. Pursuant to the same, the petitioner prepared its detailed reply and uploaded it on the

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common portal on 15.02.2024 with all necessary documents. However, the respondent, without duly considering the reply submitted by the petitioner, simply confirmed the proposal stated in the show cause notice dated 28.12.2023 and passed a demand order under Section 73(9) of the TNGST/CGST Acts, 2017, on 29.04.2024. Aggrieved by the same, the petitioner has filed the present writ petition to quash the said orders passed by the respondent and to direct the respondent to reconsider the submissions made by the petitioner.

4. The learned counsel for the petitioner contends that the respondent, after considering the reply and supporting documents filed by the petitioner in the earlier proceedings, had dropped the charges for the assessment year 2018-2019. Yet, without assigning any specific or new reasons, the respondent reopened the case and passed the impugned orders for the very same year. The learned counsel would further submit that the respondent's failure to address the grounds raised in the petitioner's detailed reply is in violation of the principles of natural justice. Therefore, the learned counsel prayed to allow this writ petition by setting aside the orders impugned herein.

5. On the other hand, the learned Government Advocate (Taxes)

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made his submissions supporting the orders passed by the respondent.

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6. Heard the learned counsel on either side and perused the materials available on record.

7. It is an admitted fact that in respect of the issue pertaining to the assessment year 2018-2019, the respondent had already dropped the proceedings after being satisfied with the petitioner's reply submitted by them. Despite this, the respondent reopened the case and issued a show cause notice for the very same assessment year 2018-19, which ultimately ended in passing of the impugned order. Though the petitioner submitted its detailed reply to the said notice, the respondent rejected the same by simply stating "not satisfied", without giving any adequate or specific reason. Such course adopted by the respondent is contrary to law and in violation of the principles of natural justice. Therefore, the order impugned herein is liable to be set aside.

8. Accordingly, the order dated 29.04.2024 passed by the respondent is set aside and the respondent is directed to pass a detailed order afresh, on merits and in accordance with law, more specifically addressing each grounds raised by the petitioner in their reply. Such an exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this

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order.

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9. This writ petition is disposed of on the above terms. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

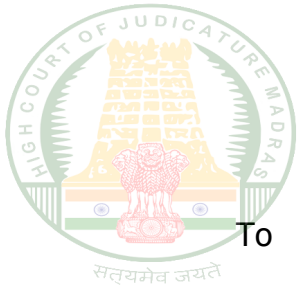
08.08.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

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The Deputy State Tax Officer-I,
Kotagiri Assessment Circle,
The Nilgiris.



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KRISHNAN RAMASAMY.J.,
r n s

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