



W.P.No.28124 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 15.02.2023

CORAM :

The HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.28124 of 2022

and

W.M.P. Nos.27414 and 27417 of 2022

M/s.Engineering Aids

Rep. by its Managing Partner

V. Ramesh Babu

...

Petitioner

vs

1. State Tax Officer (Circle),
Jurisdiction :Avadi Zone - III,
Chennai North :
Tamil Nadu.

2. Assistant Commissioner (State Tax),
Avadi Assessment Circle,
ICT Building,
32, Elephant Gate Bridge Road,
Chennai - 600 003.

3. The Branch Manager,
Andhra Bank,
Plot No.6/PC3-4,
TNHB 60 Feet Road,
Avadi.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent in Form GST DRC-07 in



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Reference No.ZD330422001705Z, dated 05.04.2022 vide Order No.223003220885467 for the financial year 2018-19, Tax period : April 2018 - March 2019 passed in GSTIN/ID : 33AAAFE0237F1Z6 and quash the same as illegal, contrary to the provisions of the Act, principles of law laid down by Hon'ble High Courts, against the principles of natural justice and fair play and direct the 1st respondent to consider the reply filed in GST DRC-06, dated 25.02.2022 and grant opportunity of personal hearing.

For Petitioner : Mr.P.Senniappan
For Respondents : Mr.V. Prasanth Kiran,
Govt. Advocate.
for R1 & R2

ORDER

This writ petition has been filed challenging the impugned order dated 05.04.2022 passed under Section 74 of the Goods and Services Tax Act, 2017 by the respondents on the ground of violation of principles of natural justice.

2. The petitioner contends that even though they have sent a reply dated 25.02.2022 in Form GST DRC-06 to the show cause notice issued by the respondents dated 17.02.2022, in Form GST DRC-01, the same has not been considered in the impugned order dated 05.04.2022 by the



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respondents.

WEB COPY 3. The petitioner has also contended that only a summary of the order dated 05.04.2022 passed under Form GST DRC-07 was served on him and not the detailed order. According to the petitioner, the said detailed order has also not been uploaded in the web portal of the respondents. On the last hearing date i.e. on 06.02.2023, this Court directed the learned Additional Government Pleader for the respondents to get instructions as to whether the reply sent by the petitioner on 25.02.2022 was received by the respondents or not.

4. Today, the learned Additional Government Pleader appearing for the respondents is unable to inform this Court as to whether the aforesaid reply dated 25.02.2022 was received by the respondents or not. The petitioner has also filed Form GST DRC-06, dated 25.02.2022, which confirms that the reply dated 25.02.2022 sent by the petitioner was received by the respondents. However, as seen from the impugned order dated 05.04.2022, there is no reference to the reply dated 25.02.2022 and the said reply has also not been considered in the impugned order. The respondents have also placed before this Court the speaking order, dated 05.04.2022, which they claim was also uploaded in the web portal along with the summary of the order. The same is disputed by the petitioner,



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who would contend that only the summary of the order, dated 05.04.2022 was served on the petitioner and not the speaking order.

Since the petitioner has been able to convince this Court that even though they have sent a reply dated 25.02.2022 to the show cause notice sent by the respondents, the same has not been considered by the respondents in the impugned order, dated 05.04.2022, hence, there is no necessity for this Court to adjudicate on the second ground raised by the petitioner viz., non service of the speaking order dated 05.04.2022 on them. Since, it is made clear that the respondents have not considered the reply, dated 25.02.2022, even though the same was received by them, the impugned order, dated 05.04.2022 has to be quashed and the matter will have to be remanded back to the respondents for fresh consideration on merits and in accordance with law.

5. For the foregoing reasons, the impugned order, dated 05.04.2022 passed by the respondents is hereby quashed and the matter is remanded back to the respondents for fresh consideration on merits and in accordance with law. The respondent is directed to pass final orders, within a period of twelve weeks from the date of receipt of a copy of this order, after adhering to the principles of natural justice and after



affording a personal hearing to the petitioner.

WEB COPY 6. In view of the quashing of the impugned order, the consequential bank attachment notice issued to the 3rd respondent bank is also quashed.

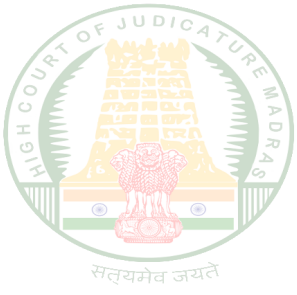
7. With the aforesaid directions, this writ petition is disposed of.
No costs. Consequently, connected miscellaneous petitions are closed.

15.02.2023

Index:Yes/No
Neutral Citation:Yes/No
vsi2

To
1. The State Tax Officer (Circle),
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Chennai North :
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2. The Assistant Commissioner (State Tax),
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3. The Branch Manager,
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