

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.174 of 2021
and WMP Nos.239 and 240 of 2021

Tvl.Naggaraj Anooradha

... Petitioner

Vs

The State Tax Officer (Circle)
Koyambedu (c)
No.4/109, Chennai Bangalore Highway,
Varadharajapuram,
Chennai – 600 123.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari calling for the records of the respondent in ZB3307200543671, namely Form-GST-RFD-06 dated 22.07.2020 and quash the same as arbitrary and illegal.

For Petitioner : Mr.S.Ramanan

For Respondents : Mr.TNC.Kaushik

Government Advocate

ORDER

Heard Mr.S.Ramanan, learned counsel for the petitioner and Mr.TNC.Kaushik, learned Government Advocate for the respondents.

2. The petitioner challenges order dated 22.07.2020 rejecting its request for refund. The petitioner is an registered assessee on the files of the State Tax Officer/sole respondent under the Goods and Services Tax Act, 2017 (in short 'Act'). The petitioner has made a claim for refund of Input Tax, in respect of which a deficiency memo had been raised by the respondent on 15.06.2020 calling for documents in support of the claim. An e-application for refund was once again filed on 16.06.2020. This was followed by a show cause notice dated 25.06.2020 proposing rejection of refund stating that there was a mismatch between the export value and the net ITC when compared to monthly returns. The petitioner has responded to the show cause notice vide reply dated 07.07.2020 enclosing copies of the export invoice, inward supply bills and bank realisation statements.

3. The case of the petitioner appears to be that two invoices relating to the month of March, 2020 had been inadvertantly omitted to be taken into account and this would account for mismatch. Had a personal hearing been afforded to the petitioner prior to adjudication of the request for refund, this point would have been explained. However, since the impugned order has

come to be passed without affording an opportunity of personal hearing, this point has not been put forth to the respondent for consideration effectively.

4. Moreover, the impugned order, is non-speaking. In fact, there is a column available for reasons on the basis of which the claim has been either accepted or rejected. However, this column in the impugned order is conspicuously blank and no reasons have been adduced for the rejection of the request. Bearing in mind the violation of principles of natural justice, the impugned order of rejection is set aside.

5. The petitioner will appear before the respondent on Monday, the 19th of July, 2021 at 10.30 a.m. without expecting any further notice in this regard. After hearing the petitioner, the respondent shall pass an order of adjudication on the request of refund, de novo within a period of four (4) weeks from the date of personal hearing, in accordance with law.

6. This Writ Petition is disposed as above. No costs. Connected Miscellaneous Petitions are closed.

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Index: Yes/no
speaking/non-speaking order

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Dr.ANITA SUMANTH,J.

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To

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