

### **Reply filed by Assessee be taken into consideration while passing Impugned Order**

The Hon'ble Madras High Court in the case of *M/s. Chennai Silks v. The Assistant Commissioner, Tirupur [W.P. No. 29095 of 2023 dated October 12, 2023]* allowed the Writ Petition and held that the Revenue Department has erred in passing the Assessment order without taking into consideration the reply filed by the assessee, thereby setting aside the Impugned Assessment Order and directing the Revenue Department to pass a detailed order after taking into consideration the reply filed by the Petitioner.

#### **Facts:**

M/s. Chennai Silks (**"the Petitioner"**) was issued an intimation in Form DRC-01A dated November 23, 2021, by the Revenue Department (**"the Respondent"**) with respect to ascertained tax liability under Section 74 of the Central Goods and Services Tax Act, 2017 (**"the CGST Act"**) for which the reply dated January 17, 2022 and February 02, 2022 (**"the Reply"**) was filed by the Petitioner. Thereafter, the Show Cause Notice dated April 17, 2023, was issued and the date was fixed for personal hearing on which the statement of replies was recorded by the Respondent. Thereafter, the Respondent passed an order dated July 04, 2023 (**"the Impugned Order"**) against the Petitioner.

Aggrieved by the Impugned Order, the Petitioner filed a writ petition before the Hon'ble Madras High Court on the ground that the Respondent has not taken into consideration the reply filed by the Petitioner and has passed a non-speaking order.

#### **Issue:**

Whether the Revenue Department erred in passing the Assessment order without taking into consideration the reply filed by the Assessee?

#### **Held:**

The Hon'ble Madras High Court in the case **W.P. No. 29095 of 2023** held as under:

- Observed that, though the Appellate Authority has the power of Assessing Officer to make an assessment by providing opportunity for personal hearing and by taking reply into consideration, however, the said order passed cannot be equated with the order passed by the Assessing Officer who would pass the order after taking into consideration the reply/objection and evidence provided by the Petitioner pursuant to the SCN. Thereby, the Petitioner would lose the opinion of the Assessing Officer, to which the Petitioner is legally entitled under the provisions of law.
- Noted that, once the Assessee has filed the reply/objections to the SCN issued, the Assessing Officer is bound to pass the speaking order providing reasons for rejection of the reply/objections raised by the Assessee. It would cause prejudice to the Assessee and huge loss to the revenue if cryptic orders are passed without taking into consideration the queries/contentions of the Assessee.
- Held that, the Impugned Order is set aside and directed the Respondent Assessing Officer to pass a detailed order after taking into consideration the reply filed by the Petitioner. Hence, the writ petition is allowed.

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