IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 19.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.3701 of 2024
and W.M.P.Nos.4006 & 4008 of 2024

Quess Corp Limited
Represented by its Authorised Signatory
Mr.Bharat Agarwal
GR Complex Main Building,
New No.808/22, Old No.407/23,
2nd Floor, Quess Corp Ltd
Anna Salai, Nandanam
Chennai 600 035. ... Petitioner

-vs-

Deputy Commissioner (ST)-1
Large Tax Payers Unit
Integrated Commercial Taxes Building
South Tower, Nandanam
Tamil Nadu. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records in the file of the respondent and quash the order under Section 73 of the TNGST Act dated 09.10.2023 and the consequent Summary of the Order in Form GST DRC-07 dated 09.10.2023 passed by respondent having Reference Number ZD3310230390137 for the year 2017-18.

For Petitioner : Mr.N.V.Balaji

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

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ORDER

The petitioner assails an assessment order dated 09.10.2023. The petitioner is engaged in the business of providing technology enabled staffing and outsourcing services. As a registered person under applicable GST laws, the petitioner had filed its returns. In relation thereto, the petitioner first received a notice in Form GST ASMT-10. In response, the petitioner requested for an adjournment. Thereafter, an intimation in Form GST DRC-01A dated 11.07.2023 was received by the petitioner in respect of four issues. This was followed by the show cause notice in Form GST DRC-01 dated 18.08.2023. Once again, by citing the revamping of its tax team, the petitioner requested for an adjournment. However, the order impugned herein came to be issued. The present writ petition was filed in the said facts and circumstances.

2. Learned counsel for the petitioner submitted that the intimation in Form DRC-01A was for an aggregate sum of Rs.85,53,571.42/-. This increased to a sum of Rs.7,93,10,788/- in the show cause notice in Form GST DRC-01. Eventually, the tax demand under the assessment order was far higher and was for the sum of Rs.63,36,17,592/-. By referring to sub-section (7) of Section 75 of the Tamil Nadu Goods and Services Tax Act, 2017, learned counsel submits that it expressly stipulates that the tax demand in the assessment order shall not be in excess of the amount specified in the notice. He further submits that the tax demand arose on account of

the petitioner remitting higher taxes as compared to the taxable supply indicated in the corresponding return. Consequently, he submits that the impugned assessment order is liable to be quashed so as to provide the petitioner an opportunity to contest the tax demand.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice on behalf of the respondent. At the outset, he submits that an appeal lies against the assessment order and that, therefore, the petitioner should be directed to avail of the statutory remedy. At a minimum, he submits that the petitioner should be directed to remit 10% of the disputed tax demand as a pre condition for re-consideration.

4. The intimation, show cause notice and assessment order are on record. On examining the same, it is evident that the amount communicated in the intimation is much lower than the amount in

respect of which the petitioner was called upon to show cause. Similarly, the tax demand under the impugned assessment order is much higher than the amount in respect of which the petitioner was called upon to show cause. The petitioner has also place on record the request for adjournment. As a result of the denial of such request, it is clear that the impugned order came to be issued without considering the submissions of the petitioner. In the overall facts and circumstances, the impugned assessment order calls for interference.

5. Therefore, the impugned order dated 09.10.2023 is quashed and the matter is remanded for re-consideration. The petitioner is permitted to file a reply to the show cause notice within a maximum period of ***fifteen days*** from the date of receipt of a copy of this order. Upon receipt thereof, after providing a reasonable opportunity to the petitioner, including a personal hearing, the assessing officer is directed to issue a fresh assessment order within a maximum period of ***two months*** from the date of receipt of the petitioner's reply.

6. W.P.No.3701 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.4006 and 4008 of 2024 are closed.

19.02.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

Deputy Commissioner (ST)-1
Large Tax Payers Unit
Integrated Commercial Taxes Building
South Tower, Nandanam
Tamil Nadu.

SENTHILKUMAR RAMAMOORTHY,J

rna

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