IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.4742 of 2024
and W.M.P.Nos.5178 & 5179 of 2024

M/s.Sri Ram Oil Mill,
Represented by its Proprietor-Kolandasamy Ramasamy
47, Tiruppur Road,
Ayyanthottam, Uthukuli,
Tiruppur 638 751. ... Petitioner

-vs-

The Deputy State Tax Officer-1,
Chennimalai Assessment Circle,
No.300, Bhavani Road,
Perundurai 638 052. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the impugned proceedings of the Respondent in GSTIN: 33ADCPR7360K1ZB / 2022-23 dated 11.09.2023 along with the consequential Form GST

DRC-07 in Reference No. ZD33092305707AG dated 11.09.2023 and quash the same as being wholly without jurisdiction.

For Petitioner : Mr.S.Rajasekar

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

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ORDER

An order dated 11.09.2023 is challenged primarily on the ground of breach of principles of natural justice. The petitioner states that he is a registered person under applicable GST laws and had effected purchases from a dealer called M/s.Sri Vari Traders. It is further stated that the petitioner had engaged the services of a consultant for GST compliances and depended on such consultant to keep him informed about proceedings in relation to assessment. According to the petitioner, he was completely unaware of the issuance of the intimation or show cause notice and, therefore, could not participate in proceedings culminating in the impugned assessment order.

2. Learned counsel for the petitioner submitted that the respondent blocked Input Tax Credit (ITC) without adhering to the statutory prescription in respect thereof. Even with regard to reversal of ITC, he submits that the transaction is genuine and that the petitioner was able to ascertain that the supplier, Sri Vari Traders, was in existence at the time of transaction and is also in possession of documents to establish that the purchase from such supplier was genuine.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. By referring to the impugned order, he points out that such order was preceded by an intimation in Form DRC-01A, a show cause notice in Form DRC-01 and personal

hearing notices. Therefore, he submits that principles of natural justice were adhered to and that no case is made out for interference.

4. The documents on record indicate that the petitioner was put on notice, albeit by uploading the intimation and notices on the GST portal. However, it is equally evident from the record that the petitioner did not participate in proceedings and, therefore, could not place on record documents to contest the reversal of ITC. In these circumstances, it becomes necessary to balance the interest of the petitioner and revenue interest. On instructions, learned counsel for the petitioner submits that the petitioner would remit 10% of the disputed tax demand.

5. By taking into account the overall facts and circumstances, in my view, the impugned order calls for interference solely for the reason of providing the petitioner an opportunity to contest the tax demand, albeit on terms.

6. Hence, the impugned order is quashed subject to the petitioner remiting 10% of the disputed tax demand within a maximum period of ***two weeks*** from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply within the aforesaid period of ***two weeks***. Upon receipt of such reply and upon being satisfied that 10% of the disputed tax demand was received, the assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and issue a fresh assessment order within a maximum period of ***two months*** thereafter.

7. W.P.No.4742 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.5178 and 5179 of 2024 are closed.

28.02.2024

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

SENTHILKUMAR RAMAMOORTHY,J

rna

To

The Deputy State Tax Officer-1,
Chennimalai Assessment Circle,
No.300, Bhavani Road,
Perundurai 638 052.

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