IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **29.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.5063 of 2024 and
W.M.P.Nos.5573 & 5575 of 2024

M/s.Karthigeya Moulds & Dies Pvt. Limited,
Represented by its Director : N.Arumugam,
Plot No.47, SIDCO Industrial Estate,
Thirumudivakkam, Chennai-600 044. ... Petitioner

-vs-

1.The Assistant Commissioner (ST)(FAC)
Thirumudivakkam Assessment Circle,
3rd floor, Room No.344,
Integrated Building for Commercial Taxes & Registration Department (South Tower),
Nandanam, Chennai-600 035.

2.The Deputy Commissioner (ST)(FAC)
Chengalpattu Zone,
No.26, 2nd floor,
Abirami Complex, Kancheepuram Main Road,
Thimmavaram, Chengalpattu-603 101. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the order passed by the 1st respondent in GSTIN:33AABCK9106B1Z3/2017-2018 dated 29.12.2023 and quash the same as contrary to the provisions of the Act, violative of principles of natural justice, without considering the reply and the documents filed before him, causing multiple/parallel notices on the same issue for the same period.

For Petitioner : Mr.M.A.Mudimannan
for Mr.K.Jayachandran

For Respondents : Mr.V.Prasanth Kiran, Govt. Advocate (T)

ORDER

The petitioner challenges an assessment order dated 29.12.2023 on the ground that principles of natural justice were breached.

2. The dispute relates to the assessment period running from July 2017 to March 2018. Pursuant to scrutiny of the petitioner's returns, a notice in Form ASMT-10 was issued on 26.12.2022. The petitioner replied thereto. Thereafter, about three show cause notices were issued on 19.09.2023, 20.09.2023 and 30.09.2023. The petitioner submitted a reply to each of these show cause notices. Pursuant thereto, the proceedings relating to show cause notice dated 30.09.2023 were dropped under communication dated

12.12.2023. Likewise, the proceedings relating to show cause notice dated 20.09.2023 were dropped by communication dated 19.12.2023. The petitioner also issued a detailed reply on 27.12.2023 and such reply was acknowledged by the respondents. The impugned order was issued in these facts and circumstances on 29.12.2023.

3. Learned counsel for the petitioner referred to the three show cause notices adverted to above and submitted that there was considerable confusion because the show cause notices pertain to the same assessment period and even the issues raised therein overlap. He further submits that the detailed reply dated 27.12.2023 was completely disregarded in the impugned assessment order and that no personal hearing was provided after such reply.

4. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the respondents. By referring to the impugned assessment order, he points out that several personal hearing notices were issued to the petitioner and that the petitioner failed to avail of such opportunities.

Therefore, he contends that no case is made out for interference.

5. The documents on record indicate that the petitioner replied to each show cause notice and that upon considering such reply, proceedings initiated under two out of three show cause notices were dropped. The communication dated 27.12.2023 was received by the respondents as evidenced by Form GST DRC-06. By such reply dated 27.12.2023, a personal hearing was requested for. This communication does not find place in the references in the impugned assessment order. Section 75(4) of the Tamil Nadu Goods and Services Tax Act mandates that a personal hearing be granted either if such hearing is requested for or if an order adverse to the assessee is proposed to be issued. In this case, not only was the reply dated 27.12.2023 disregarded, but no personal hearing was granted in spite of request. Therefore, the impugned order is liable to be interfered with.

6. Hence, the impugned assessment order is quashed and the matter is remanded for reconsideration. The 1st respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and

thereafter issue a fresh assessment order within a maximum period of two months from the date of receipt of a copy of this order.

7. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

29.02.2024

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

kj

To

1.The Assistant Commissioner (ST)(FAC)
Thirumudivakkam Assessment Circle,
3rd floor, Room No.344,
Integrated Building for Commercial Taxes &
Registration Department (South Tower),
Nandanam, Chennai-600 035.

2.The Deputy Commissioner (ST)(FAC)
Chengalpattu Zone,
No.26, 2nd floor,
Abirami Complex, Kancheepuram Main Road,
Thimmavaram, Chengalpattu-603 101.

SENTHILKUMAR RAMAMOORTHY,J.

Kj

Writ Petition No.5063 of 2024 and
W.M.P.Nos.5573 & 5575 of 2024

29.02.2024