IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.4966 & 16639 of 2024
&
WMP Nos.18265, 18268, 5455 & 5455 of 2024

W.P.No.4966 of 2024

A & A International Trading Private Limited
Rep. by its Managing Director Mr.M.Saikumar,
No.85, Perambur High Road,
Perambur, Chennai-600 011. ... Petitioner

vs

The State Tax Officer,
(Formerly Known as Commercial Tax Officer),
Villivakkam Assessment Circle,
No.15 & 16, 100 Feet Road, Malligai Avenue,
Kolathur, Chennai- 600 099. ... Respondent

W.P.No.16639 of 2024

A & A International Trading Private Limited
Rep. by its Managing Director Mr.M.Saikumar,
No.85, Perambur High Road,
Perambur, Chennai-600 011. ... Petitioner

vs

1.The Commercial Tax Officer,
Villivakkam Assessment Circle,
No.15 & 16, 100 Feet Road, Malligai Avenue,
Kolathur, Chennai- 600 099.

2. The Assistant Commissioner (ST),
Kothawalchavadi Assessment Circle,
Integrated Commercial Taxes Buildings,
Elephant Gate Road,
Chennai-600 003.

3. The State Tax Officer,
(Formerly known as Commercial Tax Officer)
Group-XIV, Intelligence-I,
PAPJM Building,
No.1 Greams Road, 1st Floor,
Chennai 600 006. ... Respondents

PRAYER in W.P.No.4966 of 2024: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the records of the Respondent in Reference Number:ZD331223150895F dated 20.12.2023 and quash the same as arbitrary, illegal and pass such or other orders as may deem fit and proper in the circumstances of the case.

PRAYER in W.P.No.4966 of 2024: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the records of the 1st Respondent in impugned Deficient Memo Number:ZD330624064117J dated 10.06.2024 and quash the same as arbitrary, illegal and pass such or other orders as may deem fit and proper in the circumstances of the case.

In both WPs

For Petitioner : Mr.S.Ramanan

For Respondent : Mr.T.N.C.Kaushik
Addl. Govt. Pleader (T)

COMMON ORDER

An order dated 20.12.2023 is challenged in W.P.No.4966 of 2024. Pursuant to an audit, a show cause notice dated 29.09.2023 was issued to the petitioner. The petitioner replied thereto on 17.11.2023 and the impugned order was issued thereafter.

2. Learned counsel for the petitioner submits that the show cause notice was issued on the same date on which the petitioner received the audit report. He further submits that the first issue raised in the show cause notice is in respect of mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. He contends that this issue was also the subject of proceedings under

Section 74. Therefore, he contends that the matter requires reconsideration. He also submits that the petitioner would be in a position to establish that only eligible ITC was claimed by submitting the requisite certificates if provided another opportunity.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, appears on behalf of the respondents. He submits that principles of natural justice were complied with and that these proceedings originated in an audit. He further submits that show cause notice dated 29.09.2023 was issued to the petitioner and that this was followed by several opportunities for personal hearing. He further submits that the petitioner's reply was duly taken into consideration.

4. On comparing the impugned order dated 20.12.2023 with the order dated 30.12.2023, which is the subject of challenge in W.P.No.4974 of 2024, it is evident that at least the issue relating to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A is common to both proceedings. Solely on this

ground, the impugned order calls for reconsideration. Learned counsel for the petitioner also contended that requisite certificates in terms of Circular No.183 are now available with the petitioner. Consequently, it is just and necessary to provide an opportunity to the petitioner.

5. For reasons aforesaid, the impugned order dated 20.12.2023 is set aside and the matter is remanded to the respondent for reconsideration. After providing a reasonable opportunity to the petitioner, including a personal hearing, the respondent is directed to issue a fresh order within three months from the date of receipt of a copy of this order. As a consequence of the impugned order being set aside, the respondent is directed to take necessary measures to unblock the input tax credit of the petitioner in the electronic credit ledger.

6. These writ petitions are disposed of on the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

03.07.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

kal

To

1. The State Tax Officer,

(Formerly Known as Commercial Tax Officer),
Villivakkam Assessment Circle,
No.15 & 16, 100 Feet Road, Malligai Avenue,
Kolathur, Chennai- 600 099.

2.The Commercial Tax Officer,
Villivakkam Assessment Circle,
No.15 & 16, 100 Feet Road, Malligai Avenue,
Kolathur, Chennai- 600 099.

3. The Assistant Commissioner (ST),
Kothawalchavadi Assessment Circle,
Integrated Commercial Taxes Buildings,
Elephant Gate Road,
Chennai-600 003.

4. The State Tax Officer,
(Formerly known as Commercial Tax Officer)
Group-XIV, Intelligence-I,
PAPJM Building,
No.1 Greams Road, 1st Floor,
Chennai 600 006.

SENTHILKUMAR RAMAMOORTHY J.

kal

W.P.Nos.4966 & 16639 of 2024
&
WMP Nos.18265, 18268, 5455 & 5455 of 2024

03.07.2024