IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.07.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.4974 of 2024
&
WMP Nos.5459 & 5461 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),
Group-XIV, Intelligence-I,
PAPJM Building,
No.1, Greams Road, 1st Floor,
Chennai 600 006. ... Respondent

PRAYER: 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:ZD331223282467D dated 30.12.2023 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.

For Petitioner : Mr.S.Ramanan

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

ORDER

By this writ petition, an order in original dated 30.12.2023 under Section 74 of applicable GST enactments is challenged.

2. Pursuant to the receipt of an intimation dated 25.09.2023, the petitioner submitted a reply dated 29.09.2023. A show cause notice dated 21.10.2023 was issued thereafter and the petitioner replied thereto on 08.11.2023. The impugned order dated 30.12.2023 was issued in the said facts and circumstances.

3. Learned counsel for the petitioner submits that the impugned order deals with about 10 defects. He further submits that the said defects include a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. In respect of this issue, he submits

that a parallel proceeding was initiated under Section 73 of applicable GST enactments and that the order issued in such proceeding is the subject of challenge in W.P.No.4966 of 2024. By referring to the show cause notice, learned counsel contends that such show cause notice pertains to a total tax proposal of Rs.84,26,027/-. By contrast, he submits that the confirmed tax proposal under the impugned order is for a total sum of Rs.2,38,82,715.42. Since the impugned order travels beyond the show cause notice, learned counsel submits that such order is not sustainable. He reiterates that the order is also not sustainable because one issue is common between this order and the order issued in proceedings under Section 73.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, appears on behalf of the respondent. He submits that principles of natural justice were complied with by issuing an intimation, show cause notice and by offering a personal hearing. In addition, he submits that the petitioner's reply was duly taken into consideration

before issuing the order.

5. On examining the show cause notice, it is evident that such show cause notice dealt with 10 heads of claim. The aggregate tax proposal in respect thereof was a sum of Rs.84,26,027/-. As against this, on perusal of the impugned order, the confirmed tax demand in respect of these 10 issues is Rs.2,38,82,715.42. On comparing the proceedings impugned herein with the proceedings impugned in W.P.No.4966 of 2024, it appears that the issue relating to mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A is common to both proceedings. These facts and circumstances warrant reconsideration. Since the impugned order travels beyond the scope of the show cause notice, it is just and necessary to provide an opportunity to the petitioner to respond meaningfully to the increased demand. Towards such end, the interest of justice warrants that the impugned order be treated as a show cause notice.

6. For reasons aforesaid, W.P.No.4974 of 2024 is disposed of by

directing that the impugned order dated 30.12.2023 be treated as a show cause notice. The petitioner is permitted to submit a reply thereto within fifteen days from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within three months from the date of the petitioner's reply.

7. W.P.No.4974 of 2024 is disposed of on the above terms. Consequently, WMP Nos.5459 & 5461 of 2024 are closed. No costs.

03.07.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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SENTHILKUMAR RAMAMOORTHY J.

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To

The State Tax Officer,
(Formerly Known as Commercial Tax Officer),
Group-XIV, Intelligence-I,
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