IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.5537 & 5544 of 2024 and
W.M.P.Nos.6129, 6132, 6136 & 6137 of 2024

In both WPs.
Sri Ranga Ply Industries,
Represented by its Partner,
Sri.S.Jagannathan,
469/1, Bellathi,
Mettupalayam-641 302. ...Petitioner

Vs.

Assistant Commissioner (ST),
Mettupalayam. ...Respondent

Prayer in W.P.No.5537 of 2024: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in his Ref.No.GSTIN 33AAWFS0391J1ZQ dated 28.09.2023 in Form GST DRC-07 for the Assessment Year 2020-2021 and quash the same with the direction to redo the adjudication after providing an opportunity of being heard.

Prayer in W.P.No.5544 of 2024: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in his Ref.No.GSTIN 33AAWFS0391J1ZQ dated 28.09.2023 in Form GST DRC-07 for the Assessment Year 2021-2022 and quash the same with the direction to redo the adjudication after providing an opportunity of being heard.

In both WPs.

For Petitioner : Mr.B.Vasumithran

For Respondent : Mr.V.Prasanth Kiran,
Government Advocate (T)

COMMON ORDER

By these writ petitions, the petitioner assails assessment orders issued on 28.09.2023 in respect of assessment years 2020-2021 and 2021 – 2022, respectively.

2. The petitioner was issued a notice in Form GST ASMT-10 in July 2023 with regard to alleged discrepancies in the returns filed by the petitioner. Such notice was not replied to. Thereafter, an intimation in Form GST DRC-01A was issued to the petitioner in September 2023 communicating the amounts payable on or before 15.09.2023. This was followed by show cause notices dated 20.09.2023. The impugned

assessment orders were issued within a few days thereafter on 28.09.2023.

3. By referring to the synopsis, learned counsel for the petitioner submits that the petitioner was not provided sufficient time to respond to the show cause notices and that no personal hearing was offered. Therefore, he submits that the impugned assessment orders warrant interference.

4. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice on behalf of the respondent. He submits that the proceedings against the petitioner commenced with the issuance of a notice in Form GST ASMT-10 in July 2023. By also referring to the intimation dated 08.09.2023, learned Government Advocate submits that the petitioner was provided sufficient opportunity at those stages. By admitting that no personal hearing was offered, learned Government Advocate submits that the petitioner is liable to be put on terms as a condition for remand.

5. On instructions, learned counsel for the petitioner submits that

the petitioner is agreeable to remit 10% of the disputed tax demand as a condition for remand.

6. The documents on record clearly indicate that the show cause notice was issued on 20.09.2023 and the impugned assessment orders on 28.09.2023. The time provided to the petitioner appears to be inadequate. In addition, the summary of the show cause notice does not provide an opportunity of personal hearing to the petitioner, which is not in consonance with the statutory mandate. Nevertheless, it also appears that the petitioner did not respond either to the notice in Form GST ASMT-10 or the intimation preceding the show cause notices. In those circumstances, the remand should be subject to terms.

7. For reasons set out above, the assessment orders impugned herein are quashed and these matters are remanded for reconsideration subject to the petitioner remitting 10% of the disputed tax demand in respect of each assessment year as agreed to. The petitioner is also permitted to submit a reply to the show cause notices within a period of two weeks from the date of receipt of a copy of this order along with 10% of the disputed tax demand. Upon receipt of such reply and upon being

satisfied that 10% of the disputed tax demand in respect of the relevant assessment year was received, the assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh assessment orders within a period of two months from the date of receipt of the petitioner's reply.

8. These writ petitions are disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

04.03.2024

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

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To

Assistant Commissioner (ST),
Mettupalayam.

SENTHILKUMAR RAMAMOORTHY,J.

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