IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.5809 of 2024
and W.M.P.Nos.6444 & 6446 of 2024

Tvl.Jayaveera Dye Chem,
Rep. by its Proprietor,
D.No.18, Kangeyam Road
Amar Jhothi A S Nagar,
7th Street, Tiruppur 641 606. ... Petitioner

-vs-

The State Tax Officer
Rural-1 Circle,
Tirupur. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records relating to the order in GSTIN: 33AGHPK0279L1Z9/2017-18 dated 25.05.2023 read with Form GST DRC 07 dated 25.05.2023 passed by the respondent and quash the same.

For Petitioner : Mr.T.Ramesh

For Respondent : Mr.C.Harsha Raj, AGP (T)

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ORDER

By this writ petition, the petitioner assails an assessment order dated 25.05.2023 relating to assessment year 2017-18. The petitioner is engaged in the business of trading in dyes and chemicals. Pursuant to the surprise inspection conducted at the premises of the petitioner on 27.08.2022, certain defects were pointed out with regard to the difference between the Input Tax Credit (ITC) availed of by the petitioner in the returns filed in Form GSTR-3B as compared to the auto populated GSTR-2A return for the corresponding period. In those circumstances, an intimation dated 09.12.2022 was issued. The petitioner responded thereto on 13.12.2022 and requested that the proceedings be dropped in light of the explanation. This was followed by a show cause notice dated 06.02.2023. The said show cause notice was also replied to by the petitioner. Eventually, the impugned assessment order was issued.

2. Learned counsel for the petitioner invited my attention to the impugned assessment order and pointed out that the sole reason for reversal of ITC was the filing of returns belatedly by the supplier, Trivenkem Agencies, for July 2017. He also points out that the said supplier filed the return on 17.09.2019, as acknowledged by the assessing officer. He also pointed out that the petitioner had replied both to the intimation and show cause notice and placed on record details of the ITC claimed by the petitioner in GSTR-3B and the ITC auto populated in GSTR-2A to establish that the availment of ITC was in order. He also points out that the petitioner had requested for an adjournment of the personal hearing, but that the assessing officer proceeded to issue the assessment order. Pursuant to the assessment order, learned counsel also points out that the bank account of the petitioner in the Kotak Mahindra Bank was attached and that monies were appropriated therefrom.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He submits that the petitioner was offered personal hearings on more than one occasion and that the petitioner failed to avail of the opportunity and contest the tax demand effectively. Therefore, he contends that no interference is warranted.

4. On examining the assessment order, it appears that the assessing officer took note of the tax payers reply. However, there is no discussion in the assessment order as to why such reply was not satisfactory. All that can be gleaned from the assessment order is that ITC was reversed because of belated filing of the return by one supplier. Since the reply of the petitioner and the documents in support thereof were not taken into consideration and the petitioner was not given a personal hearing before issuing such order, the order calls for interference.

5. Hence the assessment order dated 25.05.2023 is quashed and the matter is remanded for re-consideration by the assessing officer. The assessing officer 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. In view of the assessment order being quashed, the order of attachment of the petitioner's bank account stands raised. The amounts appropriated prior to the issuance of this order shall abide by the outcome of the remanded proceedings.

6. W.P.No.5809 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.6444 and 6446 of 2024 are closed.

07.03.2024
(1/2)

rna
Index : Yes / No

Internet : Yes / No
Neutral Citation: Yes / No

SENTHILKUMAR RAMAMOORTHY,J

rna

To

The State Tax Officer
Rural-1 Circle,
Tirupur.

W.P.No.5809 of 2024
and W.M.P.Nos.6444 & 6446 of 2024

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(1/2)