IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.6320 of 2024
and W.M.P.Nos.7027 & 7028 of 2024

M/s.Ambika Stores
rep. by its Proprietor
Sri Vasanth Manohar Singh,
No.743/322, Main Road,
Shevapet, Salem 636 002. ... Petitioner

-vs-

Deputy State Tax Officer - I,
Gugai Circle,
Salem. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records of the respondent in Order No. 33AYRPS1115M1Z3/B2/2023 and quash the proceeding dated 27.12.2023 passed therein.

For Petitioner : Mr.B.Raveendran

For Respondent : Mrs.K.Vasanthamala, GA (T)

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ORDER

An assessment order dated 27.12.2023 is the subject of challenge in this writ petition. The petitioner is a registered person under applicable GST enactments. Upon receipt of a show cause notice dated 27.09.2023 alleging discrepancy between the GSTR-3B return and GSTR-1 return as also between the GSTR-3B return and GSTR-2A auto populated return, the petitioner submitted a reply dated 29.09.2023. By such reply, the petitioner pointed out that the show cause notice itself specifies two different amounts as regards the GSTR-3B return. The petitioner also pointed out that Circular No.183 enables the registered person to submit a certificate either from the supplier or from a Chartered Accountant depending on the quantum of discrepancy and sought time to do so. The impugned assessment order was issued in these facts and circumstances.

2. Learned counsel for the petitioner referred to the show cause notice and pointed out the contradiction between the figures set out in the two tables therein. Learned counsel referred to the impugned assessment order thereafter and pointed out that the assessing officer did not deal with the reply of the petitioner.

3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She points out that the show cause notice was issued in September 2023 and that the petitioner was also offered a personal hearing on 05.10.2023. Since the assessment order was issued after adhering to principles of natural justice, learned counsel submits that no interference is warranted.

4. On examining the show cause notice, it is evident that two tables are set out therein. In the first table, the CGST and SGST

amounts in GSTR-3B are shown as Rs.3,33,787/-, whereas in the second table dealing with the difference between the GSTR-3B return and the auto populated GSTR-2A return, the GSTR-3B amounts are specified as Rs.5,19,362/- both for CGST and SGST. The sum of Rs.5,19,362/- tallies with the ITC availed of by the petitioner. Thus, the show cause notice is contradictory. In addition, it appears that the reply of the petitioner was not considered in the assessment order. The operative portion of such assessment order is as under:

> "***3. Discussions and Findings:***
>
> *As per section 37 of Tamil Nadu Goods and Services Act, the taxpayers sought to file GSTR 1 and GSTR 3B on or before the 10th and 20th day respectively of the succeeding tax period. It has been noticed that you have filed both GSTR 1 and GSTR-3B for the period from July - 2017 to March - 2018 thereby collecting the tax. During the scrutiny of the return for the above tax period difference between liability declared in GSTR-1 and tax paid under GSTR-3B as detailed below which shows that there was a mismatch between GSTR 1 and GSTR 3B returns."*

5. The above extract indicates clearly that the assessing officer did not take into account the reply dated 29.09.2023 and record

reasons as to why such reply is not satisfactory. Therefore, the impugned assessment order calls for interference.

6. As indicated earlier, the show cause notice is contradictory. Hence, the impugned assessment order is quashed by leaving it open to the respondent to initiate fresh proceedings by issuing a fresh show cause notice.

7. W.P.No.6320 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.7027 and 7028 of 2024 are closed.

12.03.2024

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

<u>SENTHILKUMAR RAMAMOORTHY,J</u>

rna

To

Deputy State Tax Officer - I,
Gugai Circle,
Salem.

W.P.No.6320 of 2024
and W.M.P.Nos.7027 & 7028 of 2024

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