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W.P.No.6523 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.6523 of 2024
and W.M.P.Nos.7251 & 7252 of 2024

Southern Engineering Services
Represented by its Proprietrix
Priya
Shop No.1, Old No.4/25, New No.9/226,
Sri Ambal Nagar - 1, Kabilan Street
Kovur, Chennai 600 128.

... Petitioner

-VS-

Deputy State Tax Officer - 1,
Kundrathur Assessment Circle
No.4/109, Bangalore NH Road
Varadharajapuram, Nazarathpettai
Chennai 600 123.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for



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the impugned proceedings of the respondent passed in GSTIN:

33BXQPP8279J1ZJ/2017-18 dated 21.11.2023 and quash the same and

further direct the respondent to re-do the assessment in accordance

with the law after providing personal hearing to the petitioner and

issue any other writ.

For Petitioner : Mr.S.Ramamoorthy
for Mr.N.Murali

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

ORDER

The petitioner assails an assessment order dated 21.11.2023. The petitioner supplied services to Dell International Services India Private Limited, which is a SEZ unit without charging GST since it was a zero rated supply. Such supply was made in July 2017, which was at the inception of the GST regime. While filing the GSTR-1 return, the petitioner asserts that the turnover was inadvertently reported under the column taxable value. In the GSTR-3B return on



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the other hand, it was correctly reported as a zero rated supply which does not attract GST. The petitioner further asserts that she could not participate in proceedings since the notices and order were uploaded in the "view additional notices and orders" tab of the GST portal. This writ petition was filed in the said facts and circumstances.

2. Learned counsel for the petitioner invited my attention to the invoice and pointed out that the invoice indicates clearly that no GST is leviable since it is a zero rated supply. He also pointed out that this supply was correctly reported in the GSTR-3B return, whereas, while filing the GSTR-1 return, the petitioner inadvertently reported it as a taxable supply. By referring to the g-mail spam folder of the petitioner, it is submitted that the e-mails received from the GST authorities were diverted to the spam folder.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that the petitioner is a



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registered person and is, therefore, required to regularly monitor the GST portal. Since the impugned assessment order was preceded by an intimation and show cause notice, he submits that principles of natural justice were complied with.

4. The petitioner has placed on record the relevant tax invoice. Such tax invoice indicates *prima facie* that the supply was made to a SEZ unit and that it consequently qualifies as a zero rated supply. The GSTR-3B return of the petitioner is in line with the supply being zero rated. It is also noticeable from the invoice and returns that the supply pertained to the July quarter of assessment period 2017-18. This was during the nascent stage of GST implementation.

5. By taking into account the above facts and circumstances, I am of the view that this is an appropriate case to provide an opportunity to the petitioner. Consequently, the impugned assessment order is quashed and the matter is remanded for re-



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consideration by the assessing officer.

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6. The petitioner is permitted to submit a reply to the show cause notice within a maximum period of *fifteen days* from the date of receipt of a copy of this order by enclosing all relevant documents. Upon receipt thereof, 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 period of *two months*.

7. W.P.No.6523 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.7251 and 7252 of 2024 are closed.

14.03.2024

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No



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SENTHILKUMAR RAMAMOORTHY,J

rna

To

Deputy State Tax Officer - 1,
Kundrathur Assessment Circle
No.4/109, Bangalore NH Road
Varadharajapuram, Nazarathpettai
Chennai 600 123.

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