IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **19.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.6907 of 2024
and W.M.P.Nos.7699 & 7700 of 2024

Tvl.Shree Vijayalakshmi Container Services,
Reptd. by its Proprietrix,
Vijayalakshmi,
No.10, Annai Gangai Amman Nagar,
Thiruvottiyur,
Chennai. ... Petitioner

-vs-

The Deputy State Tax Officer-I,
Thiruvottiyur Assessment Circle,
Integrated Commercial Taxes,
Thiruvallur Division,
Elephant Gate Bridge Road,
Chennai 600 003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records pertaining to the impugned order in GSTIN: 33AKRPV9152B2ZT /

2017-18 on 29.12.2023, passed by the respondent herein for the Assessment year 2017-2018 and quash the same as illegal, arbitrary and against the principles of natural justice.

For Petitioner : Mr.K.M.Malarmannan

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

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ORDER

An assessment order dated 29.12.2023 is challenged on the ground that the relevant exemption Notification was not taken into consideration.

2. The petitioner asserts that she owns about seven lorries and that the services provided by her are not liable to be taxed in her hands under applicable provisions of GST enactments. She further submits that a notice in Form GST ASMT-10 was received in July 2023 and a show cause notice in September 2023. Such show cause

notice was replied to in December 2023 by stating that the service of transportation of goods is exempted under applicable GST statutes. Since the impugned assessment order was issued notwithstanding such reply, the present writ petition was filed.

3. Learned counsel for the petitioner referred to the reply dated 22.12.2023 and to Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017. Since the impugned assessment order was issued notwithstanding such reply, he submits that interference is warranted. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He submits that the petitioner was provided a reasonable opportunity and, in fact, replied to the show cause notice and attended the personal hearing. Therefore, he submits that no interference is warranted.

5. The petitioner has placed on record the reply dated 22.12.2023 to the show cause notice. The said reply does not contain any indication that any documents were annexed thereto. In the absence of documentary proof of the nature of services provided by the petitioner, it was clearly not possible for the assessing officer to arrive at a conclusion with regard to the claimed exempted nature of services. It should, however, be recognized that the tax liability was confirmed without considering the contention of the petitioner that the relevant services are exempted. Solely for this reason, albeit by putting the petitioner on terms, the impugned order calls for interference.

6. Therefore, the impugned assessment order dated 29.12.2023 is quashed subject to the condition that the petitioner remits 10% of the disputed tax demand within a period of ***two weeks*** from the date of receipt of a copy of this order. The petitioner is also permitted to

submit additional documents in support of the contentions raised in the reply within the aforementioned period. Subject to the receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, 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.6907 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.7699 and 7700 of 2024 are closed.

19.03.2024

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

To

The Deputy State Tax Officer-I,
Thiruvottiyur Assessment Circle,
Integrated Commercial Taxes, Thiruvallur Division,
Elephant Gate Bridge Road, Chennai 600 003.

SENTHILKUMAR RAMAMOORTHY,J

rna

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