IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2024

CORAM

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. No. 7129 of 2024

&

W.M.P. Nos. 7981 & 7982 of 2024

South India Steels
Represented by its Proprietor,
Ambika Rengaraj,
Door No.1A, Abirami Avenue,
Kaviarasu Kannadasan Nagar,
Chennai – 600 118. ..Petitioner

Vs.

The Assistant Commissioner (ST),
Kodungaiyur Assessment Circle,
No.32, Elephant Gate Police Station
Bridge Road, Vepery,
Chennai – 600 003. ..Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for issue of a Writ of Certiorari to call for the records of the respondent passed in Reference No.ZD3307230489652 dated 13.07.2023 and quash the same.

For Petitioner	::	Mr.R. Kumar
For Respondent	::	Mr.V. Prashanth Kiran, Govt. Advocate (T)

O R D E R

The assessment order dated 13.07.2023 is challenged primarily on the ground that two separate proceedings were initiated in respect of the same assessment period and pertaining to the same issue.

2. The petitioner is a trader in iron and steel. Pursuant to a notice in Form GST ASMT - 10 dated 18.07.2022, an assessment order dated 13.07.2023 was issued. In respect of the same assessment period, another assessment order dated 29.09.2023 was issued. The present writ petition was filed in these facts and circumstances.

3. Learned counsel for the petitioner referred to the communication dated 04.10.2023 from the petitioner to the Assessing Officer intimating him that an aggregate sum of Rs.1.90 lakhs was paid with regard to the disparity between the GSTR 3B and GSTR 2A returns of the petitioner. He also pointed out that a rectification order was issued in respect of the assessment order dated 29.09.2023 after taking note of the payment of the above mentioned sum of Rs.1.90 lakhs. Since the impugned assessment order pertains to the same period and is also in respect of the alleged discrepancy between GSTR 3B and GSTR 2A returns, learned counsel contends that the impugned order is not sustainable.

4. Mr.V. Prashanth Kiran, learned Government Advocate (Tax) accepts notice on behalf of the respondent. He submits that the assessment order dated 29.09.2023 was issued pursuant to the notice dated 18.07.2022 after noticing discrepancy between GSTR 3B and GSTR 2A returns. He further submits that such proceedings were withdrawn by rectification order dated 05.02.2024 upon realizing that two proceedings were initiated in respect of the same assessment period. He points out that the confirmed demand under the impugned order was Rs.21,95,668/- towards CGST and

SGST, in the aggregate, along with interest and penalty thereon. Therefore, he contends that the payment of a sum of about Rs.1.90 lakhs does not discharge such liability. He also points out that the period of limitation for seeking rectification of the order dated 13.07.2023 has expired.

5. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit a sum of Rs.2 lakhs towards disputed tax liability under the impugned order dated 13.07.2023.

6. Undoubtedly, considerable confusion has been created by initiating two separate proceedings in respect of the same assessment period and in respect of the same issue. The rectification order is also unclear with regard to the reasons for rectification. Such order indicates that there is no tax liability. In these circumstances, the petitioner is entitled to another opportunity to explain the disparity between the GSTR 3B and GSTR 2A returns. However, the petitioner should be put on terms.

7. Therefore, the impugned order is quashed subject to the condition that the petitioner remits a sum of Rs.2 lakhs (Rupees Two Lakhs only) towards the disputed tax demand made therein. Such remittance shall

be made within a period of two weeks from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply within the aforesaid period along with such remittance. For the avoidance of doubt, it is made clear that this remittance is in addition to the sum of Rs.1.90 lakhs remitted earlier. Subject to being satisfied that the sum of Rs.2 lakhs towards disputed tax liability is 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.

8. The writ petition stands disposed of. No costs. Connected W.M.Ps are closed.

18.03.2024

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To

The Assistant Commissioner (ST),
Kodungaiyur Assessment Circle,
No.32, Elephant Gate Police Station
Bridge Road, Vepery,
Chennai – 600 003.

SENTHILKUMAR RAMAMOORTHY,J.

nv

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