IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2024

CORAM

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. Nos. 7461, 7523 & 7526 of 2024

&

W.M.P. Nos. 8343, 8349, 8432 & 8441, 8443 & 8444 of 2024

M/s. Sri Ranganathar Constructions Private Limited, rep. by its
Managing Director – M. Kandasamy,
No.599-H, C4, Ponnarsankar Illam,
Chinnappa Layout,
Near Bala Gas Agency, Bhavani,
Erode – 638 301. ..Petitioner in all the Writ Petitions

Vs.

The Assistant Commissioner (ST) (FAC),
Erode. ..Respondent in all the Writ Petitions

Prayer: Petitions under Article 226 of the Constitution of India praying for issue of a Writ of Certiorari to call for the records on the file of the respondent in its impugned proceedings made in GSTIN 33AAMCSO575R1ZO/2017-18, 33AAMCSO575R1ZO/2020-21 &

33AAMCSO575R1ZO/2021-22 respectively dated 29.09.2023 and quash the same.

For Petitioner in all the writ petitions	::	Mr.S. Rajasekar
For Respondent in all the writ petitions	::	Mr.V. Prashanth Kiran, Govt. Advocate (T)

COMMON ORDER

By these three writ petitions, assessment orders in respect of assessment years 2017-2018, 2020-2021 & 2021-2022 are challenged largely on the ground that the petitioner's reply to the intimation was disregarded.

2. The petitioner is a works contractor and registered dealer under applicable GST enactments. Pursuant to an inspection of the petitioner's registered place of business, an intimation was issued by the respondent in July, 2023. This was followed by a show cause notice in Augusst, 2023. On 27.08.2023, the petitioner replied to the intimation by pointing out that two months are required to reply on account of verification being undertaken by the DGGI (central GST authority). The petitioner also pointed out that a

sum of Rs.1,50,00,000/- was deposited with regard to assessment years 2017-2018, 2018-2019 & 2019-2020. The impugned orders were issued in the above facts and circumstances.

3. Learned counsel for the petitioner referred to the impugned orders and pointed out that the Assessing Officer did not take note of the petitioner's reply while issuing the orders. Since principles of natural justice were not complied with, he submits that these orders call for interference.

4. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

5. Mr.V. Prashanth Kiran, learned Government Advocate (Tax) accepts notice for the respondent. He submits that the principles of natural justice were adhered to by issuing both an intimation and a show cause notice.

6. The petitioner's reply has been placed on record. Although such reply is terse, the petitioner requested for two months' time to reply by citing the pending proceedings at the instance of the central GST authorities. The petitioner also pointed out that a deposit of Rs.1,50,00,000/- was made with regard to three assessment periods. Thus, the petitioner's reply was not taken into account and the petitioner was not provided time as requested in the said reply. In these circumstances, albeit by putting the petitioner on terms, the petitioner should be provided another opportunity.

7. Therefore, the orders impugned herein are quashed. Since the bank account of the petitioner was attached pursuant to a communication from the respondent to the Bank, the respondent is directed to appropriate 10% of the disputed tax demand in respect of each assessment year from such bank account. The petitioner is permitted to submit a reply to the show cause notice within a period of three weeks from the date of receipt of a copy of this order. Upon receipt of the petitioner's reply and upon being satisfied of the receipt of 10% of the disputed tax demand in respect of each

assessment year, the Assessing Officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh orders within a period of two months.

8. These writ petitions are disposed of on the above terms. No costs. Connected W.M.Ps are closed.

20.03.2024

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To

The Assistant Commissioner (ST) (FAC),
Erode.

SENTHILKUMAR RAMAMOORTHY,J.

nv

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