IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.7672 of 2024
and W.M.P.Nos.8582 & 8583 of 2024

M/s.Hindustan Valves
Rep. by its Proprietor
Mr.Palavesam Sundarapandi,
No.95, Ground Floor, Reddypalayam Road,
Mogappair West,
Chennai 600 037. ... Petitioner

-vs-

The State Tax Officer,
(Formerly known as Commercial Tax Officer),
J.J.Nagar Assessment Circle,
No.333, 3rd Floor,
Integrated Building for Commercial Taxes
and Registration Department,
Nandanam, Chennai 600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the respondent in Reference Number: ZD3312231469884 DRC-07 dated 20.12.2023 and quash the same as arbitrary, illegal.

For Petitioner : Mr.S.Ramanan

For Respondent : Mr.V.Prashanth Kiran, GA (T)

****

ORDER

An order dated 20.12.2023 reversing the Input Tax Credit (ITC) availed of by the petitioner is the subject of challenge in this writ petition. Upon examining the returns of the petitioner and his supplier, a show cause notice was issued by the petitioner on 24.08.2023 alleging discrepancy between the GSTR 3B returns of the petitioner and the auto populated GSTR 2A. The petitioner replied thereto on 23.09.2023. Pursuant to a reminder from the respondent, further replies were submitted by the petitioner on 30.10.2023, 14.11.2023 and 13.12.2023. The impugned order was issued thereafter.

2. Learned counsel for the petitioner referred to the operative paragraph of the impugned order and contended that the replies of

the petitioner were not duly considered. In particular, he points out that the sole reason for the discrepancy was an inadvertent error committed by the supplier in respect of about five invoices in as much as the supply was indicated as attracting reverse charge although it was on forward charge basis. In this connection, by referring to the GSTR 3B return of the supplier, he pointed out that the said supplies were treated as taxable supplies. He also referred to the certificate issued by the Chartered Accountant of the supplier wherein the reason for discrepancy was explained. In these circumstances, learned counsel submits that the impugned order calls for interference.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice on behalf of the respondent. On instructions, he submits that the ITC claim of the petitioner was not accepted because the petitioner did not submit original tax invoices.

4. The petitioner has placed on record a representative sample of the GSTR 1 return of the supplier in respect of invoice no. HPV11649 and this document indicates that the supplier had indicated that the supply attracts reverse charge. The GSTR 3B return of the supplier is also on record and this document indicates *prima facie* that the outward supplies were treated as taxable on forward charge basis. The petitioner also placed on record the certificate issued by D.Jayasurya, Chartered Accountant, and the said certificate categorically certifies that the supplier had inadvertently reflected the invoices mentioned therein as reverse charge supplies although tax was paid thereon while filing the corresponding GSTR 3B returns.

5. In light of the above documents, the impugned order calls for interference. In the operative portion thereof, the respondent recorded that the tax payer had not proved whether the supplier had

paid taxes by enclosing relevant proof. These conclusions are clearly unsustainable.

6. Therefore, the impugned order is quashed and the matter is remanded to the respondent for re-consideration. The respondent is directed to re-consider the matter in accordance with Circular No.183 and issue a fresh order after providing a reasonable opportunity to the petitioner, including a personal hearing, within ***two months*** from the date of receipt of a copy of this order.

7. W.P.No.7672 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.8582 and 8583 of 2024 are closed.

25.03.2024

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

SENTHILKUMAR RAMAMOORTHY,J

rna

To

The State Tax Officer,
(Formerly known as Commercial Tax Officer),
J.J.Nagar Assessment Circle,
No.333, 3rd Floor,
Integrated Building for Commercial Taxes
and Registration Department,
Nandanam, Chennai 600 035.

W.P.No.7672 of 2024
and W.M.P.Nos.8582 & 8583 of 2024

25.03.2024