IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2024

CORAM

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. Nos. 7686 & 7691 of 2024
&
W.M.P. Nos.8597, 8598, 8606 & 8608 of 2024

In both WPs.

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

Vs.

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

Prayer in W.P.No.7686 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records on the file of the respondent in its impugned proceedings made in GSTIN : 33AAMCSO575R1ZO/2019-2020 dated 29.09.2023 and quash the same.

Prayer in W.P.No.7691 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records on the file of the respondent in its impugned proceedings made in GSTIN : 33AAMCSO575R1ZO/2022-2023 dated 29.09.2023 and quash the same.

In both WPs.

For Petitioner	:	Mr.S. Rajasekar
For Respondent	:	Mr.V. Prashanth Kiran, Govt. Advocate (T)

<u>COMMON ORDER</u>

By these two writ petitions, assessment orders in respect of assessment years 2019-2020 & 2022-2023 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 August, 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 2019-2020 & 2022-2023. 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 assessment period 2019-2020. 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. Once such amounts are appropriated, the bank

attachment shall stand raised. 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. Consequently, connected W.M.Ps are closed.

22.03.2024

(2/2)

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

kj
To

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

SENTHILKUMAR RAMAMOORTHY,J.

kj

W.P. Nos. 7686 & 7691 of 2024
&
W.M.P. Nos.8597, 8598, 8606 & 8608 of 2024

22.03.2024
(2/2)