IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.7679 of 2024 and
W.M.P.Nos.8593 & 8595 of 2024

M/s.Sri Ranganathar Constructions Pvt. Ltd.,
Represented by its Managing Director
M.Kandasamy, No.599H, C4,
Ponnarshankar Illam,
Chinnappa Layout,
Bhavani,
Erode-638 301. ...Petitioner

Vs.

The Assistant Commissioner (ST),
Bhavani Assessment Circle,
Erode. ... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the impugned proceedings of the respondent GSTIN:33AAMCS057R1ZO/2018-2019 dated 05.02.2024 and quash the same.

For Petitioner : Mr.S.Rajasekar

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

O R D E R

An order dated 05.02.2024 is assailed primarily on the ground that the petitioner's replies were disregarded.

2. In respect of assessment period 2018-2019, a notice in Form GST ASMT 10 was issued to the petitioner on 18.11.2021. This was followed by a show cause notice dated 25.02.2022. The petitioner replied thereto on 23.03.2022 and informed the respondent that proceedings were initiated by the Directorate General of Goods and Services Tax Intelligence (DGGI) and that the petitioner had responded to such proceedings. Scanned copies of documents were attached to the reply and the respondent was requested to keep these proceedings in abeyance until receipt of the verdict from the DGGI. Thereafter, the petitioner received a reminder on 30.12.2022. In response thereto, by reply dated 03.01.2023, the petitioner pointed out that proceedings before the Joint Commissioner (GST) Salem (Adjudication) are ongoing and enclosed documents relating thereto. The impugned order was issued in the above facts and

circumstances.

3. Learned counsel for the petitioner referred to the impugned order and pointed out that the operative portion thereof does not consider the reply submitted by the petitioner.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that the petitioner was provided multiple opportunities and failed to avail of the same.

5. On perusal of the impugned order, it is recorded therein, in paragraph 3, as under:

> *"3) In this regard, in the reference 2nd cited intimation in DRC 01A have also been issued. In the reference 3rd cited, Show Cause notice have also been issued to file their objection or else pay the tax due for the defects pointed out above. The tax payers have neither filed any reply nor paid tax due proposed in the show cause notice in the reference 3rd cited and also not availed the opportunity of personal hearing offered within the notice time."*

From the above extract, it is evident that the two replies mentioned above were not taken into consideration while issuing the impugned order. Hence, the impugned order is unsustainable.

6. Consequently, the impugned order dated 05.02.2024 is quashed and the matter is remanded for reconsideration. The petitioner is permitted to submit a reply to the show cause notice within a period of 15 days from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of two months from the date of receipt of the petitioner's reply. In view of the impugned order being quashed, the bank attachment shall stand raised. Any amounts appropriated pursuant to such attachment shall abide by the outcome of the remanded proceedings.

7. Since it is asserted by the petitioner that a sum of about Rs.1,50,00,000/- was recovered from the petitioner pursuant to proceedings initiated by the DGGI, the respondent is directed to ascertain whether such payment was received and, if so, to provide credit for the same.

8. The writ petition is disposed of on the above terms. There will be

no order as to costs. Consequently, connected miscellaneous petitions are closed.

22.03.2024
(1/2)

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

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To

The Assistant Commissioner (ST),
Bhavani Assessment Circle, Erode.

SENTHILKUMAR RAMAMOORTHY,J.

Kj

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(1/2)