IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.No.8016 of 2024**
**and W.M.P.Nos.8983 & 8984 of 2024**

Elcon Infrastructure
Rep. by its Managing Partner
Mr.Poongavanam Baskaran,
No.51, Mosque Street,
West Saidapet,
Chennai 600 015. ... Petitioner

-vs-

The State Tax Officer,
(Formerly known as The Commercial Tax Officer)
Saidapet Assessment Circle,
#1, PAPJM Buildings (Annex),
Fifth Floor, Greams Road,
Chennai 600 006. ... 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 ZD331223260397I for the year

October 2017 to October 2017 dated 29.12.2023 and quash the same as arbitrary, illegal.

For Petitioner : Ms.V.Vijayalakshmi

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

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**ORDER**

An assessment order dated 29.12.2023 under which liability was imposed on the petitioner with regard to wrong availment of transitional Input Tax Credit is the subject of challenge.

2. The petitioner is a partnership firm, which had carried forward Input Tax Credit from the erstwhile value added tax regime to the GST regime. In relation thereto, an intimation was issued to the petitioner in August 2022 followed by a show cause notice dated 13.09.2023. Upon receipt of reminder dated 16.12.2023, by reply dated 20.12.2023, the petitioner requested for an extension of time by

referring to the death of the mother of one of the partners of the firm. The impugned order was issued thereafter on 29.12.2023.

3. Learned counsel for the petitioner referred to the above mentioned reply dated 20.12.2023 and the death certificate annexed thereto. She contended that the request for an adjournment was not responded to and that a personal hearing was not provided in breach of sub-section (4) of Section 75 of the Tamil Nadu Goods and Services Tax Act, 2017.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that the intimation was issued to the petitioner on 01.08.2022. Therefore, he submits that the petitioner had sufficient time to respond.

5. The reply dated 20.12.2023 of the petitioner refers to the death of the mother of one of the partners on 11.12.2023. On account

of the same, the petitioner requested for further time to reply to the show cause notice. The respondent did not respond to the request for adjournment and instead issued the impugned order. While a personal hearing was offered under the reminder dated 16.12.2023, the order is unsustainable because the request of the petitioner for an adjournment was not considered and no personal hearing was offered pursuant to such reply.

6. Therefore, the impugned order is quashed and the matter is remanded for re-consideration. The petitioner is permitted to submit a reply to the show cause notice within ***fifteen days*** from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to provide a reasonable opportunity, 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.

7. W.P.No.8016 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.8983 and 8984 of 2024 are closed.

**27.03.2024**

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

**To**

The State Tax Officer,
(Formerly known as The Commercial Tax Officer)
Saidapet Assessment Circle,
#1, PAPJM Buildings (Annex),
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**SENTHILKUMAR RAMAMOORTHY,J**

rna

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**and W.M.P.Nos.8983 & 8984 of 2024**

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