IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8186 of 2024 and
W.M.P.Nos.9136 & 9137 of 2024

Tvl. Rashtriya Ispat Nigam Limited,
Represented by its Authorised Signatory,
Mr.A.P.Sekar,
No.1, 4th floor, Rashmi Towers,
Village Road, Nungambakkam,
Chennai-600 034. ...Petitioner

Vs.

1.Deputy Commissioner (ST-I),
Large Tax Payers Unit, South Tower,
Nandanam, Chennai-600 035.

2.Deputy Commissioner (ST-II),
Audit Officer, Large Tax Payers Unit,
South Tower, Nandanam,
Chennai-600 035. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the Impugned Assessment Order in GSTIN/33AABCR0435L1ZL/2017-2018 dated 21.12.2023 passed by the 1st respondent and quash the same.

For Petitioner : Mr. Raghav Rajeev
for M/s.Lakshmikumaran and Sridharan Attorneys

For Respondents : Mr.C.Harsha Raj, AGP (T)

ORDER

An assessment order dated 21.12.2023 is assailed by the petitioner primarily on the ground that expenditure incurred by the petitioner towards price difference was treated as taxable supply under the applicable GST enactments. Pursuant to an audit and the issuance of an audit report dated 12.09.2023, proceedings were initiated against the petitioner by issuing a show cause notice dated 28.09.2023. After a personal hearing, the impugned order was issued on 21.12.2023.

2. Learned counsel for the petitioner referred to audit observation No.5 to contend that the price difference was originally treated as expenditure in line with the petitioner's contention. He points out that it was subsequently treated as income under the show cause notice. He further submits that under the impugned order, the respondent concluded that the petitioner had failed to substantiate its contention by submitting supporting documents and that the entire price difference was subject to tax on that basis.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondents. He submits that the petitioner should have placed all relevant documents in order to establish that the price difference was not liable to tax under applicable GST enactments. He further submits that the adjudication of this issue entails examination of disputed questions of fact. Since a statutory remedy is available to the petitioner, he submits that discretionary jurisdiction should not be exercised in favour of the petitioner.

4. On examining the impugned order, it is evident that tax demands under six heads were considered therein. Proceedings were preceded by a show cause notice to which the petitioner replied. A personal hearing was admittedly provided to the petitioner. The issue on which learned counsel focussed attention pertains to price difference in relation to steel products sold by the petitioner. Undoubtedly, the adjudication of this issue would entail consideration of disputed questions of fact, which cannot be conveniently addressed in proceedings under Article 226 of the Constitution of India.

5. The impugned order was issued on 21.12.2023 and the period of limitation, without condonation, expired on or about 21.03.2024. The petitioner is still within the condonable period. In these circumstances, it is just and appropriate that if the petitioner files an appeal within a reasonable period, such appeal be considered and disposed of on merits.

6. Hence, W.P.No.8186 of 2024 is disposed of by permitting the petitioner to file a statutory appeal within a period of 15 days from the date of receipt of a copy of this order. If such appeal is filed within the aforesaid period, the appellate authority is directed to receive and dispose of the same on merits without going into the question of limitation. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

27.03.2024

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

kj

SENTHILKUMAR RAMAMOORTHY,J.

Kj

To

1.Deputy Commissioner (ST-I),
Large Tax Payers Unit, South Tower,
Nandanam, Chennai-600 035.

2.Deputy Commissioner (ST-II),
Audit Officer, Large Tax Payers Unit,
South Tower, Nandanam,
Chennai-600 035.

W.P.No.8186 of 2024 and
W.M.P.Nos.9136 & 9137 of 2024

27.03.2024