IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.03.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.8649 of 2024 &
WMP Nos.9633 & 9634 of 2024

Tvl. Thirumala Traders,
Reptd. by its Proprietor,
D.S.Giri, S/o.Duttiruru Sriramulu,
No.227, GNT Road,
Kavaraipettai,
Tiruvallur, Tiruvallur District
Pincode 601 206. ... Petitioner

vs

The Assistant Commissioner (ST) (FAC),
Ponneri Assessment Circle,
Integrated Commercial Taxes Buildings,
(North Division),
Elephant Gate Bridge Road,
Chennai-600 003. ... Respondent

PRAYER : Writ Petition 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 pertaining to the impugned order in GSTN/33AHQPG57 45D1Z3, dated 10.08.2023 for the Assessment Year 2020-21, passed by the Respondent herein and quash the same.

For Petitioner : Mr.K.M.Malarmannan

For Respondent : Mr.C.Harsha Raj
Addl. Government Pleader (Taxes)

ORDER

An order dated 10.08.2023 is challenged on the ground of breach of principles of natural justice.

2. The petitioner is in the business of undertaking construction work for the Tamil Nadu Government. It is stated that payments were made belatedly by the Public Works Department in relation to invoices raised by the petitioner for undertaking work relating to the improvement of the Coovum River. The petitioner asserts that the accountant inadvertently filed returns for the invoice value of Rs.4,16,76,198/- by mentioning the same as outward supply of taxable turnover instead of mentioning it in the column relating to exempted supplies. According to the petitioner, this resulted in the mismatch between the GSTR 3B return and the auto-populated GSTR 2A return.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He submits that input tax credit should not have been availed of if the supplies were exempted supplies.

4. The impugned order was preceded by show cause notice dated 13.06.2023. The impugned order indicates, however, that it was issued without hearing the petitioner. 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. Solely with a view to provide a hearing to the petitioner, the impugned order calls for interference albeit by putting the petitioner on terms.

5. Therefore, the impugned order dated 10.08.2023 is quashed and the matter is remanded for reconsideration subject to the condition that the petitioner remits 10% of the disputed tax demand

within two weeks from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply to the show cause notice and enclose all relevant documents within the aforesaid period. Upon receipt of such reply and upon being satisfied that 10% of the disputed tax demand was received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within two months from the date of receipt of the petitioner's reply. Upon receipt of 10% of the disputed tax demand, the bank attachment shall stand raised.

6. W.P.No.8649 of 2024 is disposed of on the above terms and connected miscellaneous petitions are closed. No costs.

28.03.2024

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

The Assistant Commissioner (ST) (FAC),
Ponneri Assessment Circle,
Integrated Commercial Taxes Buildings,
(North Division),
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SENTHILKUMAR RAMAMOORTHY J.

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