



WEB COPY



W.P.No.8816 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8816 of 2024
and W.M.P.Nos.9820 & 9824 of 2024

M/s.Sri Lakshmi Silvers,
Represented by Manivasagan,
Proprietor,
33, 33-1/13-A, Bajanai Madam Street,
Gugai, Salem - 636 002.

... Petitioner

-VS-

The State Tax Officer,
Gugai Circle, Salem.
Respondent

...

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the files of the respondent in Ref.No. ZD330723036724G dated 11.07.2023 and summary of the order in Form GST DRC-07 in reference No. ZD330723036724G dated 11.07.2023, and quash the



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same as being without jurisdiction, arbitrary, violative of principles of natural justice, and hence invalid and illegal.

For Petitioner : Mr.V.Srikanth

For Respondent : Mrs.K.Vasanthamala, GA (T)

ORDER

An assessment order dated 11.07.2023 is assailed both on grounds of breach of principles of natural justice and on the ground that applicable circulars with regard to the procedure to be followed in cases of discrepancy between the GSTR-3B returns and the auto populated GSTR-2A returns were not adhered to.

2. The petitioner is a registered person under applicable GST enactments and engaged in the business of supply of base metals. In respect of assessment year 2018-19, the petitioner had received supplies and claimed ITC in respect thereof. Pursuant to a notice in



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Form GST ASMT-10, the petitioner also received an intimation and show cause notice. The petitioner was unable to respond to the intimation and show cause notice because the petitioner was not aware of the same since the petitioner was entirely dependent on his accountant and was not informed about the above. The impugned assessment order was issued in the above facts and circumstances.

3. Learned counsel for the petitioner submits that the petitioner did not have an opportunity to contest the tax demand. He also submits that circulars were issued by the Central Board of Indirect Taxes and Customs with regard to the procedure to be adopted in case there is disparity between the GSTR-3B returns and the GSTR-2A returns. He contends that this procedure was not adhered to in the case at hand. On instructions, he submits that the petitioner is agreeable to remit 10% of the disputed tax demand as a condition for remand.

4. Mrs.K.Vasanthamala, learned Government Advocate,



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accepts notice on behalf of the respondent. From the impugned assessment order, it is evident that the entire tax demand pertains to the disparity between the ITC claimed in the GSTR-3B return and that reflected in the auto populated GSTR-2A returns. The impugned assessment order does not indicate that the transaction was not genuine. Learned counsel for the petitioner also contended that applicable circulars were not adhered to in this regard. In these circumstances, albeit by putting the petitioner on terms, I am of the view that the petitioner should be provided an opportunity to contest the tax demand.

5. Therefore, the impugned assessment order is quashed subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to within a maximum period of *two weeks* from the date of receipt of a copy of this order. The petitioner is also permitted to file a reply to the show cause notice within the aforesaid period. Subject to receipt of the reply and upon being satisfied that 10% of the disputed tax demand was received, the assessing officer is



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directed to provide a reasonable opportunity, including a personal hearing, and issue a fresh assessment order in accordance with law within a maximum period of *two months* thereafter.

6. W.P.No.8816 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.9820 and 9824 of 2024 are closed.

03.04.2024

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

The State Tax Officer,
Gugai Circle, Salem.

SENTHILKUMAR RAMAMOORTHY,J

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