



WEB COPY



W.P.No.8564 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8564 of 2024 and
W.M.P.Nos.9507, 9510 & 9512 of 2024

M/s.Metal India Corporation,
Represented by its Proprietor,
Mr.Lalith Kumar Jain,
14/2, New No.32, Mooker Nallamuthu Street,
Chennai, Tamil Nadu-600 001.

...Petitioner

Vs.

1.The Assistant Commissioner (ST),
Broadway Assessment Circle,
Integrated Commercial Tax Building,
No.32, Elephant Gate Bridge Road,
Chennai-600 003.

2.The State Tax Officer,
Broadway Assessment Circle,
Chennai-600 001.

3.The Branch Manager,
Bank of Baroda, EC.Street Branch,
Eraballu Chetty Street,
Chennai-600 001.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records



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relating to the impugned order in GSTIN No.33AAFPJ3811K1ZY/2017-2018 dated 05.10.2023 issued by the 2nd respondent against the petitioner and quash the same, and consequently direct the 1st respondent to reverse the petitioner's ITC to the tune of Rs.9,90,426 CGST and Rs.9,97,476 SGST, which was debited on 19.01.2024.

For Petitioner : Mr.Abdul Rahman
for M/s.Nathan and Associates

For R1 & R2 : Mrs.K.Vasanthamala,
Govt. Adv. (T)

ORDER

An order dated 05.10.2023 is challenged on the ground that the petitioner had rectified the error committed while filing the GSTR 3B return for the assessment period 2017-2018 in the annual return and that the same was also taken note of in the assessment order dated 26.12.2023.

2. The petitioner asserts that a mistake was committed inadvertently while filing the GSTR 3B return in as much as the petitioner wrongly entered eligible Input Tax Credit (ITC) in 'Inward Supplies (Liable to Reverse Charge)' instead of 'All Other ITC'. Upon



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realising this error, a detailed reconciliation statement was provided to explain the mismatch when compared with the auto-populated GSTR 2A return. In the annual return filed in GSTR 9, it is stated that the error was rectified. The present writ petition was filed in view of order dated 05.10.2023, which deals with the same issue as was considered in order dated 26.12.2023, but imposes liability on the petitioner.

3. Learned counsel for the petitioner referred to the order dated 26.12.2023 and pointed out that the mismatch between the GSTR 3B and 2A returns was considered in such order and it was concluded that the proposal is dropped in view of the fact that the petitioner had corrected the mistake in the annual return and reversed the ITC availed of under the wrong head.

4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for respondents 1 & 2. She submits that the impugned order was issued because the petitioner failed to respond to the show cause notice dated 22.08.2023. She further submits that if relevant documents had been placed before the respondents, the issue would have been resolved.

5. The petitioner has placed on record the GSTR 3B return for the



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assessment period 2017-2018 and has pointed out that the error occurred because the ITC figures were wrongly mentioned in row '4(A)(3)' instead of '4(A)(5)'. The order dated 26.12.2023 took note of the fact that the petitioner rectified the error while filing the annual return and consequently dropped the proposal. In view of this order, the order dated 05.10.2023 requires reconsideration.

6. Therefore, the order dated 05.10.2023 is set aside and the matter is remanded for reconsideration. The petitioner is permitted to submit a reply to the show cause notice dated 22.08.2023 within 15 days from the date of receipt of a copy of this order. Upon receipt thereof, the 2nd 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. For the avoidance of doubt, it is made clear that the sum of Rs.19,87,902/-, which was appropriated from the petitioner's credit ledger shall abide by the outcome of the remanded proceedings. As a corollary to the assessment order being quashed, the bank attachment stands raised.

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



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

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

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SENTHILKUMAR RAMAMOORTHY,J.



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