IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.No.8460 of 2024**
**and W.M.P.Nos.9415 & 9418 of 2024**

M/s.Subh Sri Agencies,
Represented by its Proprietor,
Mr.Chandramohan Damani,
No.6, Flowers Road, Entrance 2nd Lane,
Purasaiwalkam, Chennai 600 084. ... Petitioner

-vs-

The Deputy State Tax Officer,
Peddunaickenpet Assessment Circle,
Room No.208, 2nd Floor,
Integrated Commercial Taxes Office Building,
Chennai North Division,
N.32, Elephant Gate Bridge Road,
Chennai 600 003. ... Respondent

**PRAYER**: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the impugned proceedings of the respondent in GSTN: 33AGWPD2341K1ZC /

2019-2020 dated 09.06.2023 and the summary of the order dated 09.06.2023 in Form GST DRC-07 both issued in Reference No. ZD330623035382P passed under Section 73 of the CGST Act, 2017 and TNGST Act, 2017 and quash the same as passed without considering the objections dated 17.03.2023 and also contrary to the provisions of the CGST Act, 2017 and TNGST Act, 2017 and in violation of principles of natural justice.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

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**ORDER**

An order dated 09.06.2023 is assailed on the ground that the petitioner had not claimed RCM credit for Rs.56,103.55/- under IGST for the month of January 2020.

2. The petitioner received a show cause notice dated 26.12.2022 and, in response thereto, by letter dated 17.03.2023, the petitioner

asserted that no RCM credit was claimed for the month of January 2020. Thereafter, the impugned order was issued.

3. Learned counsel for the petitioner referred to the GSTR 3B return of the petitioner for the month of January in the assessment period 2019-20 and pointed out that Input Tax Credit was availed of in respect of import of services and not with regard to supplies liable to reverse charge. In spite of submitting a reply to the above effect, he states that the tax demand was confirmed. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that the tax demand was confirmed because the petitioner failed to produce evidence in support of the Input Tax Credit claim.

5. From the GSTR 3B return of the petitioner for January in assessment period 2019-20, it is clear that the Input Tax Credit claim pertains to import of services. The reply dated 17.03.2023 is also on the same lines. In the impugned order, the petitioner's claim was rejected on the ground that the petitioner purchased goods and did not avail of services. This conclusion was reached without the petitioner being heard.

6. The impugned order was issued on 09.06.2023 and the tax demand appears to have been confirmed because the petitioner did not place documents to establish import of services. The interest of justice warrants that the petitioner be provided a reasonable opportunity albeit by putting the petitioner on terms. Solely for this reason, the impugned order calls for interference.

7. Therefore, the impugned order dated 09.06.2023 is quashed 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 documents in support of the assertion that the petitioner is entitled to Input Tax Credit on import of services. Such documents shall be filed within ***two weeks*** from the date of receipt of a copy of this order. Upon receipt of such documents from the petitioner, the respondent is directed to provide a reasonable opportunity, including a personal hearing, and thereafter issue a fresh order within ***two months*** from the date of receipt of the petitioner's documents.

8. W.P.No.8460 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.9415 and 9417 of 2024 are closed.

**27.03.2024**
**(2/3)**

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

**SENTHILKUMAR RAMAMOORTHY,J**

rna

**To**

The Deputy State Tax Officer,
Peddunaickenpet Assessment Circle,
Room No.208, 2nd Floor,
Integrated Commercial Taxes Office Building,
Chennai North Division,
N.32, Elephant Gate Bridge Road,
Chennai 600 003.

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