IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.8711 of 2024
&
WMP Nos.9733 & 9734 of 2024

M/s.Alpha City Chennai IT Park Projects Private Limited,
(Represented by its Director Mr.Prakash Challa)
No.11, Challa Mall,
Sir Thiyagaraya Road,
T.Nagar, Chennai-600 017. ... Petitioner

vs

The State Tax Officer,
Pondy Bazaar Assessment Circle,
Station No.46, Mylapore Taluk Office,
Greenways Road,
Chennai-600 028. ... Respondent

PRAYER in W.P.No.8702 of 2024 : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, to call for the records of the Respondent in the impugned Order GSTIN:33AAGCA2778L1ZF/2017-18 dated 27.12.2023 and quash the same as it has been passed in violation of principles of natural justice or quash the same as it has been passed in violation of principles of natural justice.

For Petitioner	:	Ms.Sharanya Vijay for Mr.K.Vaitheeswaran
For Respondent	:	Mr.T.N.C.Kaushik Addl. Govt. Pleader (Taxes)

ORDER

An order dated 27.12.2023 is challenged in this writ petition.

2. The petitioner is a company involved in the construction of buildings. Upon receipt of show cause notice dated 25.09.2023, the petitioner requested for additional time to reply. Thereafter, by reply dated 07.11.2023, the petitioner stated that the notice does not indicate why the petitioner was not entitled to transitional credit of Rs.14,05,211/-. The petitioner further stated that the TRAN 1 data was previously verified by the Superintendent of GST & Central Excise, Chennai South Division, and found to be in order. The impugned order was issued in these circumstances. After also filing a rectification petition on 09.01.2024, the present writ petition was

filed.

3. Learned counsel for the petitioner referred to the show cause notice and pointed out that it cannot be discerned from such show cause as to the reason for calling upon the petitioner to show cause with regard to ineligible ITC of Rs.14,05,211/-. In the absence of necessary particulars in the show cause notice, she submits that the impugned order is unsustainable.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that a rectification petition was filed by the petitioner and that the same would be considered and disposed of in accordance with law. He further submits that the tax demand was confirmed upon verification of the TRAN 1 return of the petitioner.

5. On examining the show cause notice, as contended by learned counsel for the petitioner, it is unclear as to the reason for

issuing such show cause notice with regard to the allegedly ineligible ITC of about Rs.14,05,211/-. The impugned order confirms the tax demand primarily because the petitioner did not submit documents or appear for a personal hearing. In effect, it appears that the petitioner's reply dated 07.11.2023 was not taken into account probably because such reply was submitted manually and not uploaded in the portal. In these circumstances, it is just and necessary to provide the petitioner an opportunity to contest the tax demand.

6. Since it is asserted that the show cause notice does not contain necessary particulars, the impugned order shall be treated as the show cause notice and W.P.No.8711 of 2024 is disposed of with the following directions:

(i) the impugned order shall be treated as a show cause notice. The respondent is directed to issue a supplement setting out the reasons for denying transitional credit to the petitioner. Such supplement shall be issued within a maximum period of two weeks from the date of receipt of a copy of this order.

(ii) Upon receipt thereof, the petitioner shall reply within a further period of two weeks.

(iii) Upon receipt thereof, the 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 reply from the petitioner. Consequently, connected miscellaneous petitions are closed. No costs.

01.04.2024

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

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To

The State Tax Officer,
Pondy Bazaar Assessment Circle,
Station No.46, Mylapore Taluk Office,
Greenways Road,
Chennai-600 028.

SENTHILKUMAR RAMAMOORTHY J.

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