IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.04.2024**

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.9186 of 2024 and
W.M.P.Nos.10226 & 10224 of 2024

Zuari Cement Limited
Represented by its Authorized Signatory
S.Govindarajan
No.516A, Dr.Ambedkar Street,
Athipattu, Chennai 600 120. ...Petitioner

-vs-

Deputy Commissioner ST-I I I
Large Taxpayer Unit
4th Floor Integrated Building for CT & R,
Nandanam, Chennai 600 035. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records in order dated 27.10.2023 in GSTIN: 33AAACZ1270E1ZQ/2023 passed by the respondent and to quash the same.

For Petitioner : Mr.J.Adithya Reddy

For Respondent : Mr.C.Harsha Raj, AGP (T)

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ORDER

An order dated 27.10.2023 is assailed on the ground of non consideration of the petitioner's reply. Upon receipt of an intimation in Form GST DRC-01A, the petitioner replied on 15.03.2023. A show cause notice and the impugned order followed thereafter.

2. Learned counsel for the petitioner submits that the reply dated 15.03.2023, which addressed all the issues raised in the intimation, was not taken into consideration while issuing the impugned order. In particular, he submits that the impugned order confirmed the tax demand largely on the basis that the petitioner failed to submit sample invoices. He also submits that a

rectification petition was filed on 28.01.2024 and that such petition has not been disposed of. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. By referring to the impugned order, he points out that the petitioner was provided multiple opportunities to contest the tax demand.

4. The documents on record include the petitioner's reply to the intimation. In the said reply, the petitioner has responded to the three defects indicated in the intimation. In the impugned order, as regards defect no.1, the proper officer concluded that no reply was filed thereto. As regards both issues 2 and 3, the proper officer concluded that requisite documents were not submitted. By offering to remit 10% of the disputed tax demand, the petitioner seeks another opportunity to place all relevant documents before the proper officer. In these facts and

circumstances, interference with the order is necessary in order to provide another opportunity.

5. For reasons set out above, the impugned order dated 27.10.2023 is set aside 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 dated 03.09.2022 within the aforesaid period. Upon receipt of the petitioner's 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 a period of ***two months*** from the date of receipt of the petitioner's reply.

6. W.P.No.9186 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.10224 and 10226 of 2024 are closed.

04.04.2024

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

To
Deputy Commissioner ST-I I I
Large Taxpayer Unit
4th Floor Integrated Building for CT & R,
Nandanam, Chennai 600 035.

SENTHILKUMAR RAMAMOORTHY,J.

rna

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