IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **15.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.9734 of 2024
and W.M.P.Nos.10770 & 10772 of 2024

Exim Ink Co., Rep by its Partner R.Valliammai,
No.25/A, Santhosh Nagar, St. Thomas Street,
Kandanchavadi, Chennai 600 096. ... Petitioner

-vs-

The Deputy State Tax Officer - I,
Thiruvanmiyur Assessment Circle,
Integrated Registration and Commercial Taxes Building,
Nandanam, Chennai 600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the respondent in Reference Number ZD3312232596959 dated 29.12.2023 for the financial year 2017-18 and quash the same as arbitrary, illegal.

For Petitioner : Mr.S.Ramanan

For Respondent : Mr.V.Prashanth Kiran, GA (T)

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ORDER

An order dated 29.12.2023 is challenged by the petitioner on the ground that the petitioner's replies were not taken into consideration.

2. Upon perusal of the petitioner's returns, a notice in Form GST ASMT-10 was issued to the petitioner on 18.08.2023. In response, the petitioner requested for an extension of time to file necessary documents. A show cause notice dated 19.09.2023 was issued thereafter. The petitioner replied thereto both on 19.12.2023 and 29.12.2023. The impugned order was issued in these facts and circumstances on 29.12.2023.

3. Learned counsel for the petitioner invited my attention to the reply dated 19.12.2023 and pointed out that the petitioner had explained the discrepancy between the GSTR 1 and GSTR 3B returns by pointing out that there were double entries in the GSTR 1 statement for the month of October 2017. He further submits that, by subsequent reply dated 29.12.2023, the petitioner had also collected letters from its suppliers in relation to such double entries and enclosed letters from two parties. Learned counsel for the petitioner contends that these replies were not taken into consideration in the order impugned herein.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that the petitioner merely requested for an extension of time upon receipt of notice in Form GST ASMT-10. As regards the reply dated 19.12.2023, he submits that such reply is not available on record. He further

submits that the petitioner should have rectified the discrepancy while filing the annual return, but failed to do so.

5. The operative portion of the impugned order is as under:

"The taxpayer was issued notice in ASMT-10 dated 18.08.2023. The Taxpayer not yet filed reply in form ASMT-11. Hence a notice in DRC-01 is issued. A summary of the SCN in Form DRC-01 is attached with this show cause notice.

INTEREST QUANTIFICATION:

As per section 50 of the TNGST act, 2017,

INTEREST WORKING:-

	Tax liability to be paid (CGST/SGST IGST/CESS)		*18*	
INTEREST DUE (CGST/ SGST IGST/CESS) =	--------	X	--------	X No. of Days Delayed
	365		*100*	

Due date	***Till date***	***No. of days***	***Tax***			***Interest to be paid***			***Total***
			SGST	***CGST***	***IGST***	***SGST***	***CGST***	***IGST***	
20.04.2018	*29.12.2023*	*2079*	*2,19,020.69*	*2,19,020.69*	*651*	*224553*	*224553*	*667*	*449774*

Note: *Interest was calculated upto today (29.12.2023). If the taxable person makes payment of tax and other dues on a date after 29.12.2023, then such number of days of default should be taken into account and interest amount has to be reckoned till the date of making payment."*

6. The above extract reveals that the petitioner's replies were not taken into consideration while recording these conclusions. Hence, the impugned order is unsustainable.

7. Therefore, impugned order dated 29.12.2023 is set aside and the matter is remanded for re-consideration. The respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order after taking into consideration the petitioner's replies and any documents annexed thereto. Such fresh order shall be issued within ***two months*** from the date of receipt of a copy of this order.

8. W.P.No.9734 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.10770 and 10772 of 2024 are closed.

15.04.2024

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

SENTHILKUMAR RAMAMOORTHY,J

rna

To

The Deputy State Tax Officer - I,
Thiruvanmiyur Assessment Circle,
Integrated Registration and
Commercial Taxes Building,
Nandanam, Chennai 600 035.

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and W.M.P.Nos.10770 & 10772 of 2024

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