IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.9580 of 2024 and
W.M.P.Nos.10599 & 10601 of 2024

M/s.Sakthi Ferro Alloys [India] Private Limited,
Represented by its Director,
Mr.G.T.Balaji,
No.18/26, 2nd street,
Loganathan Nagar,
Choolaimedu, Chennai,
Tamil Nadu-600 094. ...Petitioner

Vs.

The Assistant Commissioner (ST) (FAC),
Vadapalani Assessment Circle,
Greams Road, Annexe Building,
Chennai-600 006. ... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in the order passed by the respondent vide order dated 29.12.2023 vide GSTIN:33AAJCS3251K1ZA/2017-2018 along with the consequential DRC-07s Reference No.ZD331223260763L dated 29.12.2023 and quash the same as arbitrary, bad in law and consequently direct the respondent to drop the proceedings.

For Petitioner : Ms.P.Jayalakshmi

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader (T)

ORDER

An order dated 29.12.2023 is the subject of challenge in this writ petition.

2. The petitioner received an intimation dated 21.04.2023 alleging discrepancies in the returns filed by the petitioner in comparison to the GSTR 1 statement of its supplier, Emjay Steel Udyog. The petitioner replied thereto on 23.05.2023 clarifying that such discrepancy arose on account of an inadvertent mistake made by the supplier while filing the GSTR 1 statement. The petitioner further stated that such error was rectified by the supplier in the annual return. The impugned order was issued in the above facts and circumstances.

3. Learned counsel for the petitioner referred to the supplier's GSTR 9 and 9C returns. She also referred to letter dated 20.01.2020 from the supplier with regard to the inadvertent error and to the Chartered Accountant's certificate dated 12.10.2023. By further referring to the

impugned order, she submitted that a finding was recorded therein that proof of payment was not provided and that such finding disregards documents submitted by the petitioner. Learned counsel also points out that, by order dated 19.10.2023, proceedings relating to the petitioner for the same assessment year were dropped upon considering the auditor's certificate, purchase invoice copy, payment proof and e-way bill copy.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He points out that the tax demand was confirmed because the petitioner failed to provide proof of payment of tax to the Government.

5. By letter dated 20.01.2020, the supplier, Emjay Steel Udyog Private Limited, informed the petitioner that the entire GST amount was paid to the authorities. The supplier's GSTR 9 and 9C returns were annexed thereto. The said returns were also placed on record by the petitioner. In addition, the petitioner has placed on record a confirmation from the supplier's Chartered Accountant to the effect that the output tax liabilities were discharged by the supplier.

6. In the operative portion of the impugned order, it is recorded as under:

> *"Contention of taxpayer could not be accepted due to non submission of the document i.e. proof of payment made to Government. In view of the above, the proposal is confirmed and order passed for the year 2017-18 under Section 73(9) and Section 50(1) of the TNGST Act 2017 as detailed below."*

7. The above extract discloses that the documents submitted by the petitioner, such as the GSTR 9 and GSTR 9C returns and the confirmation from the Chartered Accountant were disregarded while recording the above finding. Consequently, the impugned order is unsustainable.

8. Therefore, the impugned order dated 29.12.2023 is set aside and the matter is remanded to the respondent for reconsideration. The respondent is directed to provide a reasonable opportunity, including a personal hearing, and thereafter issue a fresh order within a period of two months from the date of receipt of a copy of this order.

9. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

10.04.2024

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

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To

The Assistant Commissioner (ST) (FAC),
Vadapalani Assessment Circle,
Greams Road, Annexe Building,
Chennai-600 006.

SENTHILKUMAR RAMAMOORTHY,J.

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