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W.P.No.9608 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :11.09.2024

C O R A M :

THE HONOURABLE MR. JUSTICE **KRISHNAN RAMASAMY**

W.P.No.9608 of 2024
and W.M.P.No.10639 of 2024

M/s.Alkraft Thermotechnologies (Pvt) Ltd
Rep by its Authorized Signatory
Mr.Cherukuri Raghu,
No.35A & B/1, Ambattur Industrial Estate,
Chennai, Tiruvallur 600 058.

... Petitioner

vs.

The Assistant Commissioner of GST and C.Ex.
Ambattur Division,
R-40/A-1, TNHB Building, Mogapair (East),
Chennai 600 037

... Respondent

Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified mandamus, to call for the records of the respondent in Order No.65/2023-GST dated 22.12.2023 directing the petitioner to pay a sum of Rs.16,48,726/- along with interest and penalty of Rs.1,79,179/- to quash the same and direct the respondent not to enforce the impugned order issued by the respondent.



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For Petitioner : Mr.H.S.Hredal

For Respondent : Mr.Ramesh Kutty, Senior counsel
assisted by
Mr.B.Sivaraman, Junior Standing Counsel

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ORDER

The writ petition has been filed challenging the order of the respondent dated 22.12.2023 and also seeking a direction not to enforce the impugned order issued by the respondent.

2. The learned counsel for the petitioner contends that the respondent issued an intimation in Form GST ADT-02, vide FAR No.422/2023-24 dated 27.09.2023. During the audit, several issues remained unsettled and in this regard, the respondent issued a show cause notice dated 28.09.2023. In response to the same, the petitioner-Company filed their reply, vide letter dated 25.10.2023. Subsequently, the respondent proceeded to pass the impugned order dated 22.12.2023. In the said show cause notice, 8 issues were raised. Out of the 8 issues, 6 issues were dropped, while the demand was confirmed on the



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remaining 2 issues. Initially, a reply was filed on 25.10.2023 to the show cause notice, followed by 3 additional replies filed on 20.12.2023, 27.12.2023 and 28.12.2023 respectively. However, the respondent has not considered these replies. He further submitted that the respondent has uploaded the notices/communications in the GST Online Portal only on 31.12.2023. Without considering the replies, the impugned order came to be passed. Hence, the same is liable to set aside.

3. On the other hand, the learned Senior Standing Counsel appearing for the respondent submitted that a reply was filed on 20.12.2023 physically, but it did not reach the concerned officer at the time of passing the impugned order. Further, the other two replies were filed on 27.12.2023 and 28.12.2023 respectively, subsequent to the impugned order. Hence, the respondent was unable to consider the same. He further submitted that the respondent uploaded the notice for personal hearing in the GST Online Portal, but the petitioner failed to avail



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the said opportunity. Under such circumstances, the impugned order came to be passed.

4. In view of the above, this Court is of the opinion that it is just and necessary to provide one more opportunity to the petitioner to establish their case on merits and in accordance with law. Accordingly, the impugned order is set aside. The petitioner-Company shall file their reply/objection along with the required documents, if any, to the respondent within a period of two weeks from the date of receipt of a copy of this order. On filing such reply/objection by the petitioner, the respondent shall consider the same, after issuing a 14 days' clear notice by fixing the date of personal hearing and thereafter pass appropriate orders on merits and in accordance with law, within a period of 3 months from the date of receipt of a copy of this order.

5. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.



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To

The Assistant Commissioner of GST and C.Ex.
Ambattur Division,
R-40/A-1, TNHB Building, Mogapair (East),
Chennai 600 037

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KRISHNAN RAMASAMY,J.

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