IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 15.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.9857 of 2024
and
W.M.P.Nos.10867 & 10869 of 2024

Tvl. Sri Venkateswara Cements
Represented by its Proprietor
Chinni Ramamurthy Dhanalakshmi
No.1/128 Bazzar Street,
Kanakamma Chathram-631 204. ... Petitioner

-vs-

State Tax Officer
Tiruttani Assessment Circle ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari calling for the records in order dated 25.09.2023 in Ref.GSTIN 33AWZPD1462G1ZH/2021 passed by the Respondent and to quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mr.T.N.C.Kaushik,
Addl. Government Pleader (Taxes)

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ORDER

The petitioner assails an order dated 25.09.2023 on the ground that the reply to the ASTM-10 notice was not taken into consideration.

2. Upon receipt of the notice dated 07.07.2023 in Form GST ASMT-10, the petitioner replied on 19.07.2023. However, the petitioner did not reply to the show cause notice dated 17.08.2023. The impugned order was issued in these circumstances on 25.09.2023. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He points out that the impugned order was issued because the petitioner failed to reply to the show cause notice or to the reminder issued thereafter. He also submits

that the petitioner did not submit any documents in support of the reply dated 19.07.2023.

4. On perusal of the impugned order, it is clear that the confirmed tax demand relates to the discrepancy between the petitioner's GSTR 1 and 3B returns. It is also clear from the order that the petitioner's reply to the notice in Form ASMT-10 was not taken into account. In these circumstances, albeit by putting the petitioner on terms, the interest of justice warrants that an opportunity be provided to the petitioner to contest the tax demand on merits.

5. Therefore, the impugned order dated 25.09.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand as agreed to within two weeks from the date of receipt of a copy of this order. Within the aforesaid period, the petitioner is also permitted to submit a reply to the show cause notice. Upon receipt of such 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 two months from the date of receipt of the petitioner's reply.

6. W.P.No.9857 of 2024 is disposed of on the above terms and connected miscellaneous petitions are closed. No costs.

15.04.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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To

State Tax Officer
Tiruttani Assessment Circle

SENTHILKUMAR RAMAMOORTHY J.

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