IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition Nos.14505 & 14514 of 2024 and
W.M.P.Nos.15781, 15784, 15785, 15787, 15796 to 15799 of 2024

M/s.Intech Glass & Glazing,
Represented by its Managing Partner,
Authorised Signatory Mr.Ramesh,
No.8, First Floor, Thiruvalluvar Salai,
Meenachiamman Nagar,
Alwarthirunagar, Chennai,
Tamil Nadu-600 087. ... Petitioner in both WPs.

-vs-

1. The Assistant Commissioner,
Saligramam Zone V Chennai Central,
Tamil Nadu. .. 1st Respondent in W.P.No.14505 of 2024

1. The Commercial Tax Officer,
Saligramam Zone V Chennai Central,
Tamil Nadu. .. 1st respondent in W.P.No.14514 of 2024

2. The Branch Manager,
Axis Bank, 69, Arcot Road,
Virugambakkam, Chennai. ... 2nd Respondent in both WPs.

Prayer in W.P.No.14505 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the impugned DRC-07 Notice No.ZD330623001284X dated 01.06.2023 issued by the Assistant Commissioner, Saligramam Zone V Chennai Central, Tamil Nadu to the petitioner and subsequently issued DRC-13 order dated 13.09.2023 to the Branch Manager, Axis Bank, 69, Arcot Road, Virugambakkam, Chennai on the file of the 1st respondent and quash the same and direct the 1st respondent to consider the credit notes raised by the petitioner of Rs.16,15,342.50 towards the full satisfaction of the GST returns.

Prayer in W.P.No.14514 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the impugned DRC-07 Notice No.ZD330623117358H dated 26.06.2023 issued by the Commercial Tax Officer, Saligramam Zone V Chennai Central to the petitioner and subsequently issued DRC-13 order dated 13.09.2023 to the Branch Manager, Axis Bank, 69, Arcot Road, Virugambakkam, Chennai-600 092 on the file of the 1st respondent and quash the same and direct the 1st respondent to consider the GST Notification Order No.10/2019-Central Tax towards the full satisfaction of the GST returns.

In both WPs.

For Petitioner : Mr.R.Elango

For R1 : Mr.C.Harsha Raj, Addl. Govt. Pleader (T)

COMMON ORDER

By these two writ petitions, assessment orders relating to two distinct assessment periods are challenged on the ground of breach of principles of natural justice. By asserting that the appeal filed against the impugned orders in original were rejected on the ground of limitation, the present writ petitions were filed.

2. Learned counsel for the petitioner submits that the petitioner had filed an appeal on 15.10.2023, but such appeal was rejected as being time barred. He further submits that the petitioner had made payments to the supplier and had only availed of eligible Input Tax Credit (ITC). If provided an opportunity, he submits that the petitioner would be able to establish that only eligible ITC was availed of. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand under each assessment order as a condition for remand.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the 1st respondent. He points out that the impugned order was

preceded by a show cause notice and that a personal hearing was also offered to the petitioner.

4. On examining the orders impugned herein, it is evident that the petitioner was not heard before such orders were issued. In these circumstances, the interest of justice warrants that an opportunity be provided to the petitioner to contest the tax demand on merits, albeit by putting the petitioner on terms.

5. Therefore, the impugned orders dated 01.06.2023 & 26.06.2023, respectively are set aside and these matters are remanded for reconsideration subject to the condition that the petitioner remits 10% of the disputed tax demand in respect of each assessment period as agreed to within a period of 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 respective show cause notice. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand in respect of each assessment period was received, the 1st respondent is directed to provide a

reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh orders within three months from the date of receipt of the petitioner's reply. In view of the assessment orders being set aside, the bank attachments are raised.

6. These writ petitions are disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

12.06.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No
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SENTHILKUMAR RAMAMOORTHY,J

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To

1. The Assistant Commissioner,
Saligramam Zone V Chennai Central,
Tamil Nadu.

2. The Commercial Tax Officer,
Saligramam Zone V Chennai Central,
Tamil Nadu.

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