IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 18.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.10251 & 10262 of 2024
and W.M.P.Nos.11287, 11288, 11297 & 11298 of 2024

Tvl. Tharun Steels,
Rep. by its Proprietor
D.No.5/171-B, Poosari Thottam,
Arasur Post,
Coimbatore 641 407. ... Petitioner in both WP's

-vs-

State Tax Officer
Karumathampatti Circle
Tiruppur - 2. ... Respondent in both WP's

PRAYER in W.P.No.10251 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the entire records relating to the order in Reference No. ZD330223142447P dated 28.02.2023 passed by the respondent and quash the same.

PRAYER in W.P.No.10262 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the entire records relating to the order in Reference No. ZD330223142486N dated 28.02.2023 passed by the respondent and quash the same.

For Petitioner in both WP's	:	Ms.R.Sri Visvapriya
For Respondent in both WP's	:	Mr.V.Prashanth Kiran, GA (T)

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COMMON ORDER

In both these writ petitions, separate orders dated 28.02.2023 are challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. In relation to the availment of Input Tax Credit by the petitioner for supplies received from SSR Trading and Company and Amman Traders, proceedings were initiated against the petitioner by issuing show cause notices dated 27.09.2023. The petitioner did not reply thereto. Eventually, the impugned orders were issued on 28.02.2023.

2. Learned counsel for the petitioner submits that Input Tax Credit was reversed on the ground that the petitioner had purchased goods from non existent suppliers. She points out that the petitioner has filed the tax invoices and e-way bills to establish the genuineness of the purchases. Therefore, she makes a request for the petitioner be provided an opportunity to contest the tax demand on merits. On instructions, she submits that the petitioner is willing to remit 15% of the disputed tax demand as a condition for remand.

3. Mr.V.Prashanth Kiran, learned Government Advocate,

accepts notice for the respondent. He points out that the intimation were issued in October 2022 and, therefore, the petitioner had sufficient time to respond to the tax proposal on merits.

4. The petitioner has placed on record the invoices and e-way bills to contend that the purchases were genuine. It is clear from the impugned order that such order was issued without the petitioner participating in proceedings. In these circumstances, it is just and necessary that the petitioner be provided an opportunity to contest the tax demand on merits, albeit by putting the petitioner on terms.

5. Therefore, the impugned orders dated 28.02.2023 are set aside subject to the condition that the petitioner remits 15% of the disputed tax demand under each order within ***two weeks*** from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply to the show cause notice within the aforesaid period. Upon receipt thereof and upon being satisfied that

15% of the disputed tax demand in respect of each order was received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh assessment orders within a period of ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.Nos.10251 and 10262 of 2024 are disposed of on the above terms. No costs. Consequently, W.M.P.Nos.11287, 11288, 11297 and 11298 of 2024 are closed.

18.04.2024
(2/2)

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

To

State Tax Officer
Karumathampatti Circle
Tiruppur - 2.

SENTHILKUMAR RAMAMOORTHY,J

rna

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