IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.10238 of 2024
and W.M.P.Nos.11280 & 11284 of 2024

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

-vs-

State Tax Officer
Karumathampatti Circle
Tiruppur - 2. ... Respondent

PRAYER: 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. ZD331023094147N dated 16.10.2023 passed by the respondent and quash the same.

For Petitioner : Ms.R.Sri Visvapriya

For Respondent : Mr.V.Prashanth Kiran, GA (T)

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ORDER

An order dated 16.10.2023 is challenged in this writ petition 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 SN Enterprises, proceedings were initiated against the petitioner by issuing show cause notice dated 27.09.2023. The petitioner did not reply thereto. Eventually, the impugned order was issued on 16.10.2023.

2. Learned counsel for the petitioner submits that Input Tax Credit was reversed on the ground that the petitioner had purchased goods from a non existent supplier. She points out that the petitioner has filed the tax invoice and e-way bill to establish the genuineness of the purchase. Therefore, she makes a request that the petitioner be provided an opportunity to contest the tax demand on merits. On instructions, she submits that the petitioner is willing to remit 10% 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 was issued on 18.01.2023 and, therefore, the petitioner had sufficient time to respond to the tax proposal on merits.

4. The petitioner has placed on record the invoice and e-way bill to contend that the purchase was 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 order dated 16.10.2023 is set aside subject to the condition that the petitioner remits 10% of the disputed tax demand 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 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 assessment order within a period of ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.No.10238 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.11280 and 11284 of 2024 are closed.

18.04.2024
(1/2)

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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(1/2)