IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10943 of 2024
and W.M.P.Nos.12041 & 12044 of 2024

M/s.ILB Ramesh Homes Private Limited,
Represented by its Managing Director,
Mrs.M.Lakshmi,
80/1, 17/1, F Block,
2nd street, Anna Nagar East,
Chennai-600 102. ...Petitioner

Vs.

The State Tax Officer,
Ayanavaram Assessment Circle,
F/50, 3rd floor, First Avenue,
Anna Nagar (East),
Chennai-600 102. .. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the impugned proceedings of the respondent in GSTIN 33AABCI2661K1ZO/2017-2018 dated 19.12.2023 and the summary of the order in Form GST DRC 07 dated 19.12.2023 in Reference No.ZD3312231361224 and quash the same as passed contrary to the provisions of the CGST Act/TNGST Act, 2017 and also in violation of principles of natural justice.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

ORDER

An order in original dated 19.12.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner is a developer. It asserts that Input Tax Credit (ITC) accrued from financial year 2017-2018 until April 2022 in an aggregate sum of Rs.11,46,060/-. Since the petitioner did not have any outward supplies, it is stated that the petitioner reversed the available ITC in May 2022. On account of not being aware of proceedings culminating in the impugned order, the petitioner asserts that it was unable to explain that ITC was reversed.

3. Learned counsel for the petitioner referred to the petitioner's electronic credit ledger and the GSTR 3B return for the month of May in the year 2022-2023 to point out that the total ITC of Rs.11,46,060/- was reversed on account of not being aware of proceedings. Learned counsel submits that the petitioner was unable to contest the tax demand on

merits. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that the petitioner would be liable for belated reversal of ITC in May 2022. He also points out that sufficient opportunity was provided to the petitioner by way of show cause notice dated 04.09.2023 and by offering a personal hearing on 08.09.2023.

5. The petitioner has placed on record the electronic credit ledger, which shows reversal in May 2022. Such reversal is also reflected in the petitioner's GSTR 3B return for the month of May in the year 2022-2023. In these circumstances, albeit by putting the petitioner on terms, reconsideration is necessary.

6. For reasons set out above, the impugned order dated 19.12.2023 is set aside and the matter is remanded for reconsideration on condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of 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 of the petitioner's reply to the show cause notice 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 three months from the date of receipt of the petitioner's reply.

7. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

25.04.2024

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

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SENTHILKUMAR RAMAMOORTHY,J.

Kj

To

The State Tax Officer,
Ayanavaram Assessment Circle,
F/50, 3rd floor, First Avenue,
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