IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.12585 of 2024
and W.M.P.Nos.13747 & 13748 of 2024

M/s.S.S.Cashews,
Rep: by its Proprietor,
374, Chinnapurangani Street,
Kadampuliyur Post, Panrutti Taluk,
Cuddalore District, Cuddalore – 607 103. ... Petitioner

-vs-

Deputy State Tax Officer (ST) – I,
Panruti Rural Circle,
Commercial Taxes Building,
Panruti – 607 106. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records of the assessment proceedings for the year 2017-18 in GSTIN: 33CFBPS9618Q1ZO/2017-18 dated 05.12.2023 and to quash this impugned order passed by the respondent and direct the respondent to pass fresh orders as per Circular No.183/15/ 27.12.2022 GST dated 27.12.2022.

For Petitioner : Mr.C.Baktha Siromoni

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

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ORDER

An assessment order dated 05.12.2023 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. The petitioner states that he is a manufacturer of cashew nut kernels. Since he is not well versed with computer operations, it is stated that the petitioner was unaware of proceedings until after the impugned assessment order was issued.

2. Learned counsel for the petitioner contends that the Deputy State Tax Officer is not authorized to exercise jurisdiction in matters where the tax demand exceeds Rs.75,000/-. He also submits that the petitioner is entitled to the benefit of Circular No.183 and that he would be in a position to establish that only eligible Input Tax Credit was claimed. His last contention is that the show cause notice did not refer to a demand for interest, whereas the impugned order imposes interest liability.

3. Mr.V.Prasanth Kiran, learned Government Advocate, appears on behalf of the respondent. He submits that the show cause notice was served on the petitioner by registered post. He placed on record a copy of such show cause notice and the acknowledgment card. Therefore, he contends that principles of natural justice were complied with and that no case is made out for interference.

4. On perusal of the show cause notice, it is clear that the petitioner was informed that interest at 18% per annum would be levied unless payment is made. As regards the jurisdictional objection, learned Government Advocate contends that there is no monetary limit under applicable GST statutes and that the notifications relied upon by learned counsel for the petitioner are confined to proceedings under the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956.

5. On examining the impugned assessment order, it is clear that the tax proposal, which related to a mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A, was confirmed on the ground that the petitioner did not reply to the show cause notice. Although the respondent has placed on record proof of service of the show cause notice on the petitioner, the fact remains that the petitioner was not heard before the tax proposal was confirmed. The petitioner asserts that he is in a position to establish

that only eligible Input Tax Credit was claimed. Upon putting the petitioner on terms, re-consideration is warranted in the interest of justice. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit a sum of Rs.1,00,000/- towards the disputed tax demand.

6. For reasons aforesaid, impugned order dated 05.12.2023 is set aside on condition that the petitioner remits a sum of Rs.1,00,000/- towards the disputed tax demand. Such remittance shall be made within ***three 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 on being satisfied that a sum of Rs.1,00,00/- 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. W.P.No.12585 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.13747 and 13748 of 2024 are closed.

01.07.2024

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

To

Deputy State Tax Officer (ST) – I,
Panruti Rural Circle,
Commercial Taxes Building,
Panruti – 607 106.

SENTHILKUMAR RAMAMOORTHY,J

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