IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.12250 of 2024
and W.M.P.Nos.13339 & 13340 of 2024

M/s.Steelex India,
Represented by its Proprietor
M.Arvind Pukhrajji Mehta,
No.22-A, Vannier street, Broadway,
Chennai-600 001. ... Petitioner

-vs-

The State Tax Officer,
Broadway Assessment Circle,
Room No.305, 3rd floor,
Wall Tax Road,
Chennai-600 003. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the respondent in order dated 30.07.2023 in GSTIN 33AAFFR5539Q1ZM/2018-2019 and quash the same as illegal, arbitrary and in violation of principles of natural justice.

For Petitioner : Ms.C.Rekhakumari

For Respondent : Mr.C.Harsha Raj, Additional Govt. Pleader (T)

ORDER

An order in original dated 13.10.2023 is assailed on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits. The petitioner received a notice in Form ASMT 10 dated 31.08.2023 upon scrutiny of returns filed by the petitioner. Thereafter, show cause notice dated 12.09.2023 was issued. This was followed by a communication dated 25.09.2023 in Form ASMT 12 informing the petitioner that proceedings in ASMT 10 were dropped. The impugned order came to be issued thereafter.

2. Learned counsel for the petitioner submits that the petitioner had inadvertently filled up the entry relating to “inward supplies liable to reverse charge” in Form GSTR 3B instead of making the entry in the row relating to “all other ITC”. According to her, the entire tax proposal was a result of this inadvertent error. She seeks an opportunity to contest the tax demand on

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

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He points out that proceedings in Form ASMT 10 were dropped in view of the issuance of a show cause notice on 12.09.2023. He also points out that the petitioner failed to reply to the show cause notice.

4. Learned counsel for the petitioner pointed out that the tax proposal has arisen on account of an inadvertent error committed by the petitioner while filing Form GSTR 3B for July 2017-2018 which was the first month after introduction of the GST regime. In these circumstances, albeit by putting the petitioner on terms, reconsideration is necessary in the interest of justice.

5. For reasons set out above, the impugned order dated 13.10.2023 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. Within the aforesaid period, the petitioner is permitted to submit a reply to the show cause notice dated 12.09.2023. 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.

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

05.06.2024

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

kj

SENTHILKUMAR RAMAMOORTHY,J

kj

To

The State Tax Officer,
Broadway Assessment Circle,
Room No.305, 3rd floor,
Wall Tax Road,
Chennai-600 003.

Writ Petition No.12250 of 2024
and W.M.P.Nos.13339 & 13340 of 2024

05.06.2024