IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 07.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.12330 of 2024
and W.M.P.Nos.13435 & 13436 of 2024

Ms.Shashi Bala,
Proprietor of M/s.Shiva Sanitary Hardwares,
No.29, Mill Road, Coimbatore,
Tamil Nadu – 641 001. ... Petitioner

-vs-

The Commercial Tax Officer (ST),
R.G.Street, Coimbatore-I,
Coimbatore, Tamil Nadu – 641 001. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records of the impugned order in Ref.No. ZD3309231217298 dated 20.09.2023 under Section 73 of the CGST / TNGST Act, 2017 and uploaded the same along with the summary of order in DRC 07 for the Financial Year 2021-22 from the files of the respondent herein, quash the same.

For Petitioner : Mrs.Aparana Nandakumar

For Respondent : Mr.C.Harsha Raj, AGP (T)

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ORDER

An order in original dated 20.09.2023 is assailed both on the ground of breach of principles of natural justice and on the ground that an irrelevant notification was applied in respect of sanitary ware.

2. The petitioner is a dealer in sanitary ware, and asserts that sanitary ware was subject to 28% GST as per Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 until the GST rate was reduced to 18% under Notification No.6/2018-Central Tax (Rate) dated 25.01.2018. Since the petitioner's request for an adjournment in response to the show cause notice was denied and a wrong

notification was applied, the present writ petition was filed.

3. Learned counsel for the petitioner referred to the petitioner's reply dated 19.09.2023 requesting for time until 07.10.2023. She pointed out that the respondent proceeded to issue the assessment order on 20.09.2023 without granting time as requested for. With reference to the impugned order, she also points out that the respondent applied Notification No.5/2020 which applies to satellite launch services and not sanitary ware.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He points out that the impugned order contains a reference to the petitioner's request for an adjournment and that such request was rejected because 66 days' time had already been given to the petitioner.

5. On perusal of the impugned order, it appears that the respondent applied Notification No.5/2020 dated 16.10.2020. The

petitioner has placed on record the said notification. The notification applies to satellite launch services and not to sanitary ware. The petitioner has also placed on record Notification No.6/2018, which reduces the GST rate on sanitary ware to18% from the earlier 28%. By reply dated 19.09.2023 the petitioner requested for an adjournment for reasons stated therein up to 07.10.2023. Such request was denied. As a result, the tax proposal was confirmed without considering the petitioner's response on merits.

6. For reasons set out above, impugned order dated 20.09.2023 is set aside and the matter is remanded for re-consideration. The petitioner is directed to submit a reply to the show cause notice within ***fifteen days*** from the date of receipt of the copy of this order. On receipt thereof, 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.12330 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.13435 and 13436 of 2024 are closed.

07.06.2024

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

To

The Commercial Tax Officer (ST),
R.G.Street, Coimbatore-I,
Coimbatore, Tamil Nadu – 641 001.

SENTHILKUMAR RAMAMOORTHY,J

rna

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