IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.12023 of 2024 and
W.M.P.Nos.13120 & 13122 of 2024

Tvl. Suurya Infotek,
Represented by its Partner,
1/119, Kamanaickenpalayam,
Palladam, Tiruppur-641 664. ... Petitioner

-vs-

Deputy State Tax Officer-I,
Palladam-1 Circle,
Tiruppur. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the entire records relating to the order in Reference No.ZD331223073414R dated 12.12.2023 read with Form GST DRC-07 dated 12.12.2023 passed by the respondent and quash the same.

For Petitioner : Mr.T.Ramesh

For Respondent : Mrs.K.Vasanthamala, Government Advocate (T)

ORDER

An order in original dated 12.12.2023 is assailed on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that he was unable to reply to the intimation and show cause notice relating to the mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A since the petitioner's supplier, AIRCEL Limited, was in liquidation. In the affidavit in support of the writ petition, the petitioner has asserted that Input Tax Credit (ITC) was availed only to the extent eligible and that the petitioner made payment through bank channel for inputs received from AIRCEL Limited. Since AIRCEL Limited is in liquidation, the petitioner states that necessary documents could not be obtained before the impugned order was issued.

3. Learned counsel for the petitioner submits that the petitioner has

the invoices, proof of payment to the supplier and other relevant documents. He also submits that the petitioner is endeavouring to obtain the necessary certificate from the Liquidator of AIRCEL Limited so as to comply with the requirement of Circular No.183. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. By drawing reference to the impugned order, she points out that such order was preceded by an intimation dated 27.09.2023, show cause notice dated 29.09.2023 and at least two personal hearing notices.

5. On perusal of the impugned order, it is evident that the tax proposal confirmed therein relates to mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. The petitioner has explained the discrepancy in the affidavit by pointing out that inputs were received from AIRCEL Limited, which is a company in liquidation. The petitioner has also

placed on record invoices relating to supplies received from AIRCEL Limited and statement of accounts *prima facie* indicating payment towards such supply. In these circumstances, albeit by putting the petitioner on terms, it is just and necessary that the petitioner be provided an opportunity to contest the tax demand on merits.

6. For reasons set out above, the impugned order dated 12.12.2023 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 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 of the petitioner's reply 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 five 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.

03.06.2024

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

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To

Deputy State Tax Officer-I,
Palladam-1 Circle,
Tiruppur.

SENTHILKUMAR RAMAMOORTHY,J

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