IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.12420 & 12423 of 2024
and W.M.P.Nos.13555, 13556, 13559 & 13560 of 2024

Tvl. Ziss Enterprises Pvt. Ltd.,
Reptd. by its Director, G.Sakthvinodrajan,
S/o.S.Gopinath, No.226, 4th floor, OM Sakthi Plaza,
Kilpauk Garden Road,
Kilpauk, Chennai 600 010. ... Petitioner in both WP's

-vs-

1.The State Tax Officer (ST),
Ayanavaram Assessment Circle,
Flat No.50, 3rd Floor, First Avenue,
Anna Nagar (East), Chennai 600 102.

2.The Assistant Commissioner,
Ayanavaram Assessment Circle,
Flat No.50, 3rd Floor, 1st Avenue,
Anna Nagar East, Chennai 600 102. ... Respondents in both WP's

PRAYER in W.P.No.12420 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records pertaining to the impugned order dated 30.10.2023 passed by the 1st respondent against the petitioner's GSTIN 33AAACZ4102F1ZV, for the Assessment year 2017-18 and quash the same as illegal and against the principles of natural justice.

PRAYER in W.P.No.12423 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records pertaining to the impugned order dated 31.10.2023 passed by the 1st respondent against the petitioner's GSTIN 33AAACZ4102F1ZV, for the Assessment year 2018-19 and quash the same as illegal and against the principles of natural justice.

For Petitioner in both WP's	:	Mr.K.M.Malarmannan
For Respondents in both WP's	:	Mr.V.Prasanth Kiran, GA (T)

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COMMON ORDER

An order in original dated 31.10.2023 is assailed on the ground of breach of principles of natural justice. The petitioner states that it was a trader in leather goods and that its GST registration was cancelled on 14.10.2020. Consequently, it is stated that the petitioner was unaware of proceedings culminating in the impugned order.

2. Learned counsel for the petitioner submits that the confirmed tax proposal pertains to the alleged wrongful availment of Input Tax Credit (ITC). He submits that such tax proposal arose as a result of an inadvertent error committed by the petitioner while filling up the GSTR 3B returns in as much as amounts were specified against the RCM column instead of 'all other ITC' column. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand in respect of each assessment period as a condition for remand.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the respondents. He points out that the principles of natural justice were complied with by issuing show cause notice dated 11.09.2023 and by offering a personal hearing to the petitioner on 14.09.2023.

4. On perusal of the impugned order, as contended by learned counsel for the petitioner, it appears that the GST proposal pertains to the availment of ITC after specifying amounts in the reverse charge column in the GSTR 3B returns. It is also noticeable that the tax proposal was confirmed because the petitioner did not reply to the show cause notice or attend the personal hearing. In these circumstances, the interest of justice warrants that an opportunity be provided to the petitioner to contest the tax demand on merits, albeit by putting the petitioner on terms.

5. For reasons set out above, the impugned orders dated 31.10.2023 are set aside, subject to the condition that the petitioner remits 10% of the disputed tax demand in respect of each assessment period as agreed to within a maximum period of ***two weeks*** from the date of receipt of a copy of this order. Within the aforementioned period, the petitioner is also permitted to submit a reply to the show cause notice. Upon receipt thereof 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 fresh assessment orders within a period of ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.Nos.12420 and 12423 of 2024 are disposed of on the above terms. No costs. Consequently, W.M.P.Nos.13555, 13556, 13559 and 13560 of 2024 are closed.

07.06.2024

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

To

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Ayanavaram Assessment Circle,
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Anna Nagar (East),
Chennai 600 102.

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SENTHILKUMAR RAMAMOORTHY,J

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