IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.14283 of 2024
&
WMP Nos.15501 & 15502 of 2024

Everest Wall Coat Industries
Rep. By its Partner,
R.Muthurman
No.58, Indira Gandhi Road
Alwarthirunagar,
Chennai-600 087. ... Petitioner

Versus

Deputy State Tax Officer-II
Saligramam Assessment Circle
No.15 & 16, Malligai Avenue,
1st Floor, 100 Feet Road,
Kolathur, Chennai-600 099. ...Respondent

Prayer : A Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari to call for the impugned order of the respondent passed in GSTIN:33AAFE36673J1ZE/2017-18 dated 01.12.2023 digitally signed on 02.12.2023 and quash the same.

For Petitioner : Mr.N.Murali

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

ORDER

An order in original dated 01.12.2023 is assailed in this writ petition on the ground of denial of reasonable opportunity to the petitioner to contest the tax demand on merits.

2. The petitioner asserts that GST compliances were assigned to a consultant and that such consultant did not inform the petitioner because the show cause notice and other communications were uploaded in the "View Additional Notices and Orders" tab on the GST portal. The present writ petition was filed after recovery proceedings were initiated against the petitioner.

3. Learned counsel for the petitioner submits that the tax proposal pertains to the Input Tax Credit (ITC) as per the GSTR 3B

returns of the petitioner. It is stated that the alleged difference indicated in the impugned order is only on account of a technical glitch in the GST portal and that correct details were entered when the petitioner filed the return. If provided an opportunity, learned counsel submits that the petitioner would be in a position to establish that the petitioner's GSTR 3B returns were in order. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.V.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She points out that the impugned order was preceded by a show cause notice dated 30.08.2023 and at least three reminders.

5. On examining the impugned order, it appears that the tax proposal pertains to the reverse charge liability declared and input tax credit claimed. The impugned order also records that the tax

proposal is confirmed because the petitioner did not reply to the show cause notice. Since the petitioner asserts that he could not participate in the proceedings on account of being unaware of the same, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits albeit by putting the petitioner on terms.

6. Therefore, the impugned order dated 01.02.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within two weeks from the date of receipt of a copy of this order. Within such period, the petitioner is also permitted to submit a reply to the show cause notice. Upon receipt thereof and on 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.

7. W.P.No.14283 of 2024 is disposed of the above terms. Consequently, W.M.P.Nos.15501 & 15502 of 2024 are closed. No costs.

11.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes/ No

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To
Deputy State Tax Officer-II
Saligramam Assessment Circle
No.15 & 16, Malligai Avenue,
1st Floor, 100 Feet Road,
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SENTHILKUMAR RAMAMOORTHY J.

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