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W.P.Nos.14655, 14658, 14825 & 14827 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition Nos.14655, 14658, 14825 & 14827 of 2024 and
W.M.P.Nos.15920, 15922, 15923, 15925, 16063 to 16066 of 2024

In all WPs.

M/s.J P Polymers Private Limited,
Having its registered office at
No.5 and 5A, Thiruneermalai Road,
Chrompet, Nagalkeni, Chennai,
Tamil Nadu-600 044,
Represented by Mr.Vinod J.

... Petitioner

-VS-

Commercial Tax Officer,
Office of the State Tax Officer (Group-2),
Chengalpattu Intelligence Division,
No.870/2A, 1st floor,
Kancheepuram High Road,
Thimmavaram, Chengalpattu-603 101.

... Respondent

Prayer in W.P.No.14655 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records on the file of the respondent in the impugned proceedings against order in original in Form GST DRC-07 bearing Reference No.ZD330324067446F dated 13.03.2024 along with the annexure



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dated 29.02.2024, under the provisions of CGST Act, 2017 and quash the same and consequently direct the respondent to pass de novo order.

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Prayer in W.P.No.14658 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records on the file of the respondent in the impugned proceedings against order in original in Form GST DRC-07 bearing Reference No.ZD3303240748955 dated 13.03.2024 along with the annexure dated 29.02.2024, under the provisions of CGST Act, 2017 and quash the same and consequently direct the respondent to pass de novo order.

Prayer in W.P.No.14825 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records on the file of the respondent in the impugned proceedings against order in original in Form GST DRC-07 bearing Reference No.ZD330324068713H dated 13.03.2024 along with the annexure dated 29.02.2024, under the provisions of CGST Act, 2017 and quash the same and consequently direct the respondent to pass de novo order.

Prayer in W.P.No.14827 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus



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calling for the records on the file of the respondent in the impugned proceedings against order in original in Form GST DRC-07 bearing Reference No.ZD330324068427E dated 13.03.2024 along with the annexure dated 29.02.2024, under the provisions of CGST Act, 2017 and quash the same and consequently direct the respondent to pass de novo order.

In all WPs.

For Petitioner : Mr.Anil Bezawada
for Ms.Lavanya P.R.

For Respondent : Mr.T.N.C.Kaushik, Addl. Govt. Pleader (T)

COMMON ORDER

In all these writ petitions, orders in original dated 13.03.2024 relating to distinct assessment periods are challenged on the ground that the petitioner's reply was not considered. Pursuant to an inspection of the petitioner's place of business, intimation and show cause notices were issued in respect of about eight defects. The petitioner submitted separate replies in respect of each defect. The orders impugned herein were issued in the said facts and circumstances.

2. Learned counsel for the petitioner referred to the impugned order



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and pointed out that the petitioner's reply is referred to in relation to each defect, but the tax proposal was confirmed without specifying any reason for rejecting the reply. Therefore, he submits that orders impugned herein call for interference.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He points out that principles of natural justice were complied with by issuing an intimation, a show cause notice and personal hearing notices.

4. On perusal of the impugned orders, it is noticeable that the petitioner's reply to the show cause notice is referred to therein but no findings are recorded in respect of reasons for rejecting such reply. By way of illustration, the findings in respect of defect no.1 are set out below:

“The reply has been scrutinized and identified that reply is not in order due to neither filed any relevant document to the payment of difference of tax liability Rs.182673/- nor document of proof to substantiate no difference turnover between GSTR 3B and GSTR 1. Therefore the proposal of levy tax Rs.182673/- is hereby



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confirmed”

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Similar findings were recorded in respect of each defect. The petitioner has placed on record the replies to the show cause notice. The petitioner has replied separately to each defect. On examining the reply, for instance in respect of defect no.1 relating to the difference between the petitioner's GSTR 3B and GSTR 1 statement, it is noticeable that the petitioner has explained the discrepancy in considerable detail. I find no discussion on the explanation of the petitioner. Instead, it is recorded that the reply is not in order. On account of the failure of the respondent to duly consider the petitioner's reply and record reasons for rejecting such reply, orders impugned herein cannot be sustained.

5. For reasons set out above, the impugned orders in original are set aside and these matters are remanded for reconsideration. The petitioner is permitted to submit additional documents, if any, within a period of two weeks from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to provide a reasonable opportunity to the



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petitioner, including a personal hearing, and thereafter issue fresh orders within three months from the date of receipt of additional documents from the petitioner.

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

13.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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To

Commercial Tax Officer,
Office of the State Tax Officer (Group-2),
Chengalpattu Intelligence Division,
No.870/2A, 1st floor,
Kancheepuram High Road,
Thimmavaram, Chengalpattu-603 101.

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SENTHILKUMAR RAMAMOORTHY,J

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