IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.14991 of 2024 and
W.M.P.Nos.16287 & 16289 of 2024

Tvl. Urayur Cotton Company,
Represented by its Partner A.Lakshmanan,
50, Meenkarai Main Road,
Zamin Uthukuli, Pollachi. .. Petitioner

-vs-

The State Tax Officer,
Pollachi (West) Assessment Circle,
Pollachi-642 001. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the Respondent in his proceedings in GSTIN 33AAAFU5097K1ZV/2017-18 dated 29.12.2023 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan

For Respondent : Mrs.K.Vasanthamala, Govt. Adv. (T)

ORDER

An order in original dated 29.12.2023 is challenged on the ground that the petitioner's reply was not taken into consideration.

2. The petitioner received show cause notice dated 25.09.2023 in respect of two defects. The first defect relates to alleged circular trading by the petitioner and the consequential unlawful availment of Input Tax Credit (ITC). The second issue relates to payment of professional charges on reverse charge mechanism basis. The petitioner replied to the show cause notice on 24.10.2023. In such reply, the petitioner asserted that the management of the petitioner and M/s.Santhanalakshmi Mills India LLP (Santhanalakshmi Mills) is not common. The petitioner set out particulars of the partners of Santhanalakshmi Mills. The petitioner also stated that the common premise is specified as an additional place of business in the petitioner's registration certificate. Copies of the rental agreement and registration certificate of Urayur Cotton Company and Santhanalakshmi Mills were enclosed. With regard to professional charges, the petitioner

stated that a sum of Rs.2,50,000/- pertains to the TNVAT period and a sum of Rs.5,85,000/- related to IGST tax invoice. After deducting the said amounts, it was stated that the liability on reverse charge mechanism basis was Rs.4,18,000/- and that such liability was discharged. The impugned order was issued in these facts and circumstances.

3. Learned counsel for the petitioner invited my attention to the impugned order and pointed out that the tax proposal relating to defect no.1 was confirmed solely on the ground that the two entities use a common place of business without taking into account the reply of the petitioner or the documents annexed thereto. Similarly, as regards professional charges, he submits that the reply was totally disregarded and the total tax proposal value of Rs.12,53,000/- was confirmed.

4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She points out that the impugned order refers to the reply dated 29.12.2023. By further submitting that no case is made out for interference since the petitioner's reply was taken into consideration,

learned counsel submits that the petitioner has an alternative statutory remedy.

5. The petitioner's reply dated 24.10.2023 is on record. As regards defect no.1, the petitioner asserts that the two entities are not under the same management. Particulars of partners of Santhanalakshmi Mills are set out. A copy of the rent agreement and registration certificate of both Urayur Cotton Company and Santhanalakshmi Mills appears to have been enclosed with the reply. On perusal of the impugned order, I find that the reply and documents annexed thereto were not taken into consideration. As regards professional charges, the petitioner had stated that reverse charge mechanism liability was limited to Rs.4,18,000/- and that this amount was paid. This reply was also completely disregarded in the impugned order. Consequently, the impugned order cannot be sustained and the matter requires reconsideration.

6. For reasons set out above, the impugned order dated 29.12.2023 is

set aside and the matter is 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 petitioner, including a personal hearing, and thereafter issue a fresh order within a period of three months from the date of receipt of additional documents from the petitioner.

7. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

18.06.2024

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

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<u>SENTHILKUMAR RAMAMOORTHY,J.</u>

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To

The State Tax Officer,
Pollachi (West) Assessment Circle,
Pollachi-642 001.

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