IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **26.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.15744 & 15747 of 2024
and W.M.P.Nos.17152, 17154, 17158 & 17159 of 2024

M/s.Trident Home Furnishings Private Limited,
Represented by its Managing Director,
Mr.R.Rajendran,
No.24, Trident House,
KaraikkalAmmiyar Street Indira Nagar,
Valasaravakkam, Chennai 600 087. ... Petitioner in both WP's

-vs-

1.The Assistant Commissioner (ST),
Ramapuram Assessment Circle,
No.10, Palaniyappa Building,
Greams Road, Chennai 600 006.

2.State Tax Officer (ST),
Ramapuram Assessment Circle,
No.10, Greams Road,
Palaniyappamaligai,
Chennai 600 006. ... Respondents in both WP's

PRAYER in W.P.No.15744 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records relating to the impugned order dated 21.12.2023 passed in GSTIN: 33ACCT0833D1ZX/2017-18 passed by the 2nd respondent and quash the same.

PRAYER in W.P.No.15747 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records relating to the impugned order dated 27.03.2024 passed in GSTIN: 33AACCT0833D1ZX/2023-24 and the consequential GST DRC-13 order dated 27.03.2024 issued by the 1st respondent and quash the same.

For Petitioner in both WP's : Mr.Hari Radhakrishnan

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

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COMMON ORDER

By these writ petitions, an assessment order and the consequential bank attachment are challenged. Show cause notice dated 22.09.2023 was issued to the petitioner in respect of discrepancies between the GSTR 3B returns of the petitioner and the auto populated GSTR 2A. Because the show cause notice and impugned order were uploaded in the "view additional notices and orders" tab of the GST portal, the petitioner asserts that it was unaware of these proceedings until the bank account was attached. The present writ petitions were filed in these facts and circumstances.

2. Learned counsel for the petitioner submits that the assessing officer noticed the aggregate value of inward supplies as per GSTR 2A. Upon noticing that the outward supply turnover, as per GSTR 3B, was low, he contends that tax liability was imposed on the speculative basis that the petitioner would have had outward supplies corresponding to such purchases. He contends that the burden of establishing sales suppression is on the respondent and not on the petitioner. Without prejudice, he submits that the petitioner agrees to remit 5% of the disputed tax demand as a condition for remand.

3. Mr.V.Prasanth Kiran, learned Government Advocate,

appeared on behalf of the respondent. He submits that principles of natural justice were complied with by issuing show cause notice dated 23.09.2023 and by offering a personal hearing to the petitioner.

4. On perusal of the impugned order, it appears that tax liability was imposed on the allegation of sale suppression based on the difference between purchase value and outward supply value. The petitioner has asserted that it could not participate in proceedings on account of being unaware of the same. By taking the said assertion into account and by taking into account the nature of the confirmed tax proposal, the interest of justice warrants re-consideration subject to putting the petitioner on terms.

5. For reasons aforesaid, the impugned order is set aside on condition that the petitioner remits 5% of the disputed tax demand within ***two weeks*** from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to submit a reply to the show cause notice. On receipt thereof and on being satisfied that

5% of the disputed tax demand was received, the first 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 the petitioner's reply. In view of the assessment order being set aside, the bank attachment is raised.

6. W.P.Nos.15744 and 15747 of 2024 are disposed of on the above terms. No costs. Consequently, W.M.P.Nos.17152, 17154, 17158 and 17159 of 2024 are closed.

26.06.2024

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

To

1.The Assistant Commissioner (ST),
Ramapuram Assessment Circle,
No.10, Palaniyappa Building,
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2.State Tax Officer (ST),

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SENTHILKUMAR RAMAMOORTHY,J

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