IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16466 of 2024
and W.M.P.Nos.18023 & 18021 of 2024

C R Industries,
GSTIN: 33AAJFC0727H1ZS,
Represented by its Partner Srinivasan,
26 A, Cinnasamy Layout, Anna Nagar,
Velandipalayam, Coimbatore 641 025. ... Petitioner

-vs-

The State Tax Officer,
Velandipalayam Circle,
Commercial Tax Building,
Dr.Balasundaram Road,
Coimbatore 641 018. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records pertaining to the impugned order in Form GST DRC – 07 bearing reference number ZD331223114898D/2017-18 dated 16.12.2023 issued by the respondent and quash the same.

For Petitioner : Mr.C.Derrick Sam

For Respondent : Mr.C.Harsha Raj, AGP (T)

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ORDER

An order in original dated 16.12.2023 is challenged on the ground of breach of principles of natural justice. By asserting that the show cause notice and other communications were uploaded on the "view additional notice and orders" tab of the GST portal and not communicated to the petitioner through any other mode, the present writ petition was filed.

2. Learned counsel for the petitioner submits that the tax proposal pertains to alleged wrongful availment of Input Tax Credit

(ITC). He submits that the petitioner did not avail of ITC in relation to the purchase of a motor vehicle although such ITC was reflected in the auto populated GSTR 2A. He relies upon the screen shot of the portal reflecting ITC comparison. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing intimation dated 20.09.2023, show cause notice dated 30.10.2023 and by issuing a personal hearing notice dated 03.11.2023.

4. On perusal of the impugned order, it is clear that the confirmed tax proposal relates to wrongful availment of ITC in respect of the purchase of a vehicle. Such tax proposal appears to have originated from the ITC amount being reflected in the auto

populated GSTR 2A. By taking into account the contention of the petitioner that ITC was not availed of in respect of purchase of the motor vehicle, the interest of justice warrants interference by putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 16.12.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within ***fifteen days*** from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to 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.

6. W.P.No.16466 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.18023 and 18021 of 2024 are closed.

08.07.2024

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

To

The State Tax Officer,
Velandipalayam Circle, Commercial Tax Building,
Dr.Balasundaram Road, Coimbatore 641 018.

SENTHILKUMAR RAMAMOORTHY,J

rna

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