IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2024

CORAM

**THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.15591 of 2024
and
W.M.P.Nos.16991 & 16993 of 2024

M/s. P R Earth & Contracts,
Rep.by its Proprietrix,
Panjamoorthy Rajalakshmi. ... Petitioner

Versus

State Tax Officer,
Papanasam Assessment Circle,
Thanjavur, Tamil Nadu. ... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of the impugned assessment order Ref.No. ZD330423123753P dated 26.04.2023 under Section 73 of the CGST/TNGST Act, 2017, and uploaded along with summary of order in DRC-07 for financial year 2022-23 from the files of the respondent herein, QUASH the same.

For Petitioner : Ms. Aparna Nandakumar

For Respondents : Mr. T.N.C. Kaushik,
Additional Government Pleader (Tax)

**ORDER**

An assessment order dated 26.04.2023 is assailed both on the ground of breach of principles of natural justice and on the ground that the petitioner discharged the tax liability in full.

2. The petitioner asserts that GST was originally payable in respect of civil contracts at the rate of 12% and that such rate was subsequently increased to 18% with effect from 13.07.2022 under notification No.03/2022-Central Tax (Rate) dated 13.07.2022. After initially raising an invoice with GST at 12%, the petitioner states that a revised invoice was issued by adding GST at 18%.

3. Learned counsel for the petitioner refers to the returns of the petitioner and points out that the differential tax of Rs.3,07,827/- towards CGST and SGST was paid while filing the return in Form GSTR 3B for the month of February 2022-23. She also points out that the petitioner submitted a reply after the impugned order was issued since the petitioner was unaware of proceedings prior thereto. On instructions, learned counsel for the petitioner agrees to remit 10% of the disputed tax demand as a

condition for remand.

4. Mr. T.N.C. Kaushik, learned Additional Government Pleader accepts notice for the respondent. By referring to the impugned order, he submits that principles of natural justice were complied with by issuing intimation dated 29.11.2022, show cause notice dated 19.12.2022 and by issuing a personal hearing notice.

5. The petitioner has placed on record the GSTR 3B return for the month of February 2022 -23. The return discloses the payment of CGST of Rs.3,07,825.5/- and SGST of a like amount. On perusal of the impugned order, the amount specified as payable by the petitioner tallies with the amount indicated in the GSTR 3B returns. On instructions, however, Mr. T.N.C. Kaushik submits that these amounts were not received. This is a matter to be verified by the assessing officer. Nonetheless, a case is made out for reconsideration on this basis, subject to putting the petitioner on terms.

6. For reasons set out above, the impugned order dated 26.04.2023 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. The petitioner is also permitted to submit a reply to the show cause notice within the said period. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, the respondent is directed to provide a reasonable opportunity, including a personal hearing, and thereafter issue a fresh order within three months from the date of receipt of the petitioner's reply. In view of the assessment order being set aside, the bank attachment and the property attachment are raised.

7. The Writ Petition is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petition is also closed.

**24.06.2024**

Index :Yes/No
Speaking/Non-Speaking
Neutral Case Citation : Yes/No
klt

To

The State Tax Officer,
Papanasam Assessment Circle,
Thanjavur, Tamil Nadu.

**SENTHILKUMAR RAMAMOORTHY,J**

klt

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