



W.P.No.15515 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 21.06.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15515 of 2024
and W.M.P.Nos.16867 & 16869 of 2024

M/s.Orient Electricals and Engineers India P. Ltd.
No.90, Orient Chambers,
Armenian Street, Chennai – 600 001,
Represented by its Director,
Mr.Maheshwari Sridhar.V.

... Petitioner

-VS-

Assistant Commissioner (ST).
Broadway Assessment Circle,
No.32, Integrated Commercial
Taxes Office Complex,
Room No.304, 3rd Floor,
Elephant Gate Bridge Road,
Vepery, Chennai – 600 007.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records



W.P.No.15515 of 2024

relating to the impugned order bearing Reference No.:

ZD330823133930J dated 23.08.2023 passed by the respondent and quash the same.

For Petitioner : Mr.T.R.Ramesh

For Respondent : Mr.V.Prasanth Kiran, GA (T)

ORDER

An order in original dated 23.08.2023 is challenged in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. A show cause notice dated 27.06.2023 was issued to the petitioner calling upon the petitioner to show cause as to why Input Tax Credit should not be reversed to the extent of credit notes issued by the petitioner's suppliers. Since the petitioner was unaware of the show cause notice, the petitioner could not reply thereto. Eventually, the petitioner was informed by its banker that an attachment notice was received from



W.P.No.15515 of 2024

the Commercial Tax Department for recovery of tax. Thereafter, the petitioner filed an appeal before the first appellate authority. While filing such appeal, the petitioner made a pre deposit of 12.5% of the tax demand. Since such appeal was not entertained on the ground of limitation, the present writ petition was filed.

2. Learned counsel for the petitioner submits that the supplier had issued these invoices and thereafter issued credit notes so as to cancel such invoices. He further submits that the petitioner did not avail of Input Tax Credit for the value of these credit notes. If provided an opportunity, learned counsel submits that the petitioner would be in a position to establish that only eligible Input Tax Credit was availed.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that the impugned order was preceded by a notice in Form ASMT 10 dated 17.05.2023, a show



W.P.No.15515 of 2024

cause notice dated 27.06.2023 and by offering a personal hearing to the petitioner.

4. On examining the impugned order, it is evident that the tax proposal relates to the credit notes reflected in the auto populated GSTR 2A. Learned counsel for the petitioner submits that Input Tax Credit was not availed of for the value of such credit notes. By taking the said submission into account and the assertion that the petitioner did not participate in proceedings on account of not being aware of the same, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits. In this connection, it should be noticed that the petitioner remitted 12.5% of the disputed tax demand while filing the appeal.

5. For reasons set out above, impugned order dated 23.08.2023 is set aside and the matter is remanded for re-consideration. The petitioner is permitted to submit a reply to the show cause notice



W.P.No.15515 of 2024

within *fifteen days* 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 *three months* from the date of receipt of the petitioner's reply. For the avoidance of doubt, it is made clear the petitioner's remittance of 12.5% of the disputed tax demand shall abide by the outcome of the remanded proceedings. In view of the assessment order being set aside, the bank attachment is raised.

6. W.P.No.15515 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.16867 and 16869 of 2024 are closed.

21.06.2024

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No



W.P.No.15515 of 2024

To
WEB COPY

Assistant Commissioner (ST).
Broadway Assessment Circle,
No.32, Integrated Commercial
Taxes Office Complex,
Room No.304, 3rd Floor,
Elephant Gate Bridge Road,
Vepery, Chennai – 600 007.



WEB COPY



W.P.No.15515 of 2024

SENTHILKUMAR RAMAMOORTHY,J

rna

W.P.No.15515 of 2024
and W.M.P.Nos.16867 & 16869 of 2024

21.06.2024