IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.15713 of 2024 and
W.M.P.Nos.17127 & 17130 of 2024

Tvl. Nagarajan Pavithra,
2nd Floor, 7, Gokul Tower,
C.P Ramaswamy Road, Alwarpet,
Chennai-600 018. .. Petitioner

-vs-

1. The Union of India,
Represented by the Secretary,
Department of Revenue,
Ministry of Finance,
No.137, North Block,
New Delhi-110 001.

2.The Goods & Services Tax Council,
Rep. by its Secretary,
GST Council Secretariat,
5th Floor Tower - Il,
Jeevan Bharti Building,
Janpath Road, Connaught palace,
New Delhi-110 001.

3.Central Board of Indirect Taxes and Customs,
Rep by its Chairman, North Block,
New Delhi-110 001.

4.The State of Tamilnadu,
Rep by its Secretary to Government,
Commercial Taxes and Registration (B1)
Department, Secretariat,
Fort St. George, Chennai-600 009.

5.Principal Secretary /Commissioner
of Commercial Taxes,
Commercial Taxes Department,
Ezhilagam, Chepauk, Chennai-600 005.

6.The Assistant Commissioner (ST),
Alwarpet Assessment Circle,
Integrated Building for Commercial
Taxes and Registration Departments,
Room No 210, 2nd Floor, Nandanam,
Chennai-35.

7.The Commercial Tax Officer,
Alwarpet Assessment Circle,
Integrated Building for Commercial
Taxes and Registration Departments,
Room No.207, 2nd Floor, Nandanam,
Chennai-35. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records in and connected with impugned order in GST/33BKQPP9587G1ZB/2018-19 dated 29.04.2024 issued by the 6th respondent and quash the same as arbitrary, without jurisdiction and illegal.

For Petitioner : Mr.B.Satish Sundar

For R1 to R3 : Mr.Ramesh Kutty, Senior Standing Counsel

For R4 to R7 : Mr.C.Harsha Raj, Addl. Govt. Pleader (T)

ORDER

An assessment order dated 29.04.2024 is challenged in this writ petition. The petitioner received show cause notice dated 28.12.2023. By such show cause notice, the petitioner was called upon to show cause in respect of failure to report correct tax liability while filing the annual returns in Form GSTR 9. The petitioner replied to such show cause notice on 16.04.2024. The impugned assessment order was issued thereafter.

2. Learned counsel for the petitioner submits that the petitioner failed to report inward supply while filing the monthly returns and the annual return for financial year 2018-2019. He further submits that Input Tax Credit (ITC) of Rs.5,40,185/- was available in the auto-populated GSTR 2A. In those circumstances, he submits that the tax proposal for Rs.2,71,465/- each towards CGST and SGST was confirmed without taking these aspects into account.

3. Mr.Ramesh Kutty, learned senior standing counsel, accepts notice for respondents 1 to 3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for respondents 4 to 7. Both of them submit that the petitioner is no longer entitled to ITC since the petitioner failed to file returns within the time limit prescribed in sub-section (4) of Section 16. In addition, they submit that the petitioner's reply was taken into consideration and that principles of natural justice were complied with.

4. The petitioner has placed on record show cause notice dated 28.12.2023 and the reply dated 16.04.2024. By such reply, the petitioner asserts that both the GSTR 3B and 9 returns contained clerical errors. This reply was taken into consideration in the impugned order while confirming the tax proposal. In these circumstances, it cannot be said that principles of natural justice were violated. Consequently, I am not inclined to exercise discretionary jurisdiction.

5. For reasons set out above, W.P.No.15713 of 2024 is disposed of without any order as to costs by leaving it open to the petitioner to avail of

the statutory remedy. Consequently, connected miscellaneous petitions are closed.

25.06.2024

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

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To

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