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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.15719 of 2024 and
W.M.P.No.17136 of 2024

Tvl. Andritz Separation (India) Limited,
Represented by its Director and
Authorised Signatory,
Robert Stantish Kumar,
S.No.389, 400/2-A, 400/2-C,
Padur Road, Kuthambakam Village,
Poonamallee Taluk, Tiruvallur District,
Tamil Nadu-600 124. .. Petitioner

-vs-

The Assistant Commissioner (ST),
FAC, Nolambur Assessment Circle,
Integrated Building for Commercial
Taxes and Registration Departments,
Nandanam, Chennai-600 035. ... Respondent

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 Order in CST.649071/2015-16 dated 09.02.2024 on the file of the respondent and quash the same as being contrary to law and the directions of appellate authority order dated 08.04.2022.

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For Petitioner : Mr.B.Satish Sundar

For Respondent : Mr.C.Harsha Raj, Addl. Govt. Pleader (T)

ORDER

An order dated 09.02.2024 rejecting a rectification petition under Section 84 of the Tamil Nadu Value Added Tax Act, 2006 (the TNVAT Act) is challenged in this writ petition.

2. The petitioner designed, engineered, manufactured, and supplied goods described as Andritz membrane filter press for a total value of Rs.11,50,00,000/- under excise invoice-cum-delivery challan bearing Invoice No.095. The commercial invoice carried Invoice No.007 dated 29.07.2015. An assessment order relating to the transaction was issued on 15.03.2019 and a high tax rate was imposed for non production of C forms. Upon appeal, the appellate authority remanded the matter to the original authority by order dated 08.04.2022. The original authority issued a revised order of assessment on 30.06.2022. Upon a rectification application being filed, the impugned order was issued on 09.02.2024.

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3. Learned counsel for the petitioner referred to the order of the appellate authority and pointed out that the original authority was directed to examine the matter afresh on merit upon considering the form C declaration of the petitioner. He points out that such form C declaration was submitted by the petitioner. He also points out that the petitioner had obtained a certificate from the buyer to the effect that the form C declaration inadvertently mentions the goods as 'iron ore' instead of 'membrane filter press for iron ore'. In spite of such documents being submitted, learned counsel points out that the original authority confirmed the earlier order in the revised assessment order dated 30.06.2022. As regards the impugned order, learned counsel points out that the authority failed to exercise jurisdiction under Section 84 in spite of the petitioner pointing out that there are errors apparent in the revised assessment order.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He points out that the scope and ambit of Section 84 of the TNVAT Act is limited. Unless there are errors apparent on the face of the record, he submits that such jurisdiction cannot be exercised.

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5. The petitioner has placed on record the contract between the petitioner and the buyer. Such contract contains a description of the materials. The excise invoice bearing Invoice No.095 dated 29.07.2015 is on record as also the commercial invoice bearing CI No.007, dated 29.07.2015. These invoices also contain a description of the goods. The relevant C form is on record. Such C form described the commodity as iron ore.

6. On examining the impugned order, it appears that the petition under Section 84 was rejected after noticing that the invoice number mentioned in the C form does not tally with the invoice number in the commercial invoice. The petition was further rejected on the ground that the C form mentions the commodity as iron ore.

7. As stated earlier, the invoice number mentioned in the C form appears to tally with that in the excise invoice. In order to understand the nature of the commodity, it may be necessary to examine all the relevant documents, such as the contract and invoice. It also appears *prima facie* that

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such examination may be possible even within the confines of the limited jurisdiction exercised under Section 84. Therefore, the matter requires reconsideration.

8. For reasons set out above, the impugned order dated 09.02.2024 is set aside and the matter is remanded for reconsideration. After providing a reasonable opportunity to the petitioner, including a personal hearing, the respondent is directed to issue a fresh order within three months from the date of receipt of a copy of this order.

9. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petition is closed.

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

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SENTHILKUMAR RAMAMOORTHY,J

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To

The Assistant Commissioner (ST),
FAC, Nolambur Assessment Circle,
Integrated Building for Commercial
Taxes and Registration Departments,
Nandanam, Chennai-600 035.

Writ Petition No.15719 of 2024 and
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