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W.P.No.16224 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16224 of 2024 and
W.M.P.Nos.17766 & 17767 of 2024

M/s.Oasys Cybernetics Private Limited,
Represented by its General Manager (Finance),
Mr.Debasisha Samal,
No.3, OAS Towers, Stringers Road,
Vepery, Chennai-600 003.

... Petitioner

-VS-

State Tax Officer,
Vepery Assessment Circle,
Palaniappa Maaligai,
No.10, Greams Road, Chennai-600 006.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records in detailed impugned Order bearing Reference No. GSTIN 33AACCO2848M1Z8/2018-19 dated 07.03.2024 along with DRC 07 bearing ref No. ZD330324038775D dated 07.03.2024 and quash the same as the same having been passed in violation of the principles of natural justice without considering the detailed defense put forth by the Petitioner and also violative of Article 19 (1) (g) and 265 of the Constitution.

For Petitioner : Mr.MS.Krishnakumar



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For Respondent : Mr.T.N.C.Kaushik, AGP (T)

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ORDER

An order in original dated 07.03.2024 is challenged in this writ petition on the ground that Input Tax Credit (ITC) reflected in GSTR 2A was not properly taken into consideration. Pursuant to the scrutiny of the petitioner's returns, notice in Form ASMT 10 was issued on 17.08.2023. This was followed by show cause notice dated 19.09.2023. The petitioner replied to such show cause notice on 18.10.2023 and 23.01.2024. The impugned order was issued thereafter.

2. Learned counsel for the petitioner submits that the order of adjudication refers to amounts not reflected in the GST Model-2 portal. He submits that such information was not made available to the petitioner and that the petitioner has no access thereto. He also submits that the GSTR 2A reflects 11 bills of entry and amounts corresponding thereto. To that extent, he submits that the confirmed tax proposal is erroneous and warrants reconsideration.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader,



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accepts notice for the respondent. He submits that principles of natural justice were complied with by informing the petitioner of discrepancies by issuing notice in Form ASMT 10 dated 17.08.2023. He also submits that the replies of tax payer to the show cause notice were duly considered. He also points out that information relating to the mismatch was received from ICEGATE. As regards the Model-2 portal, he submits that this is a source of information for the GST Department.

4. The petitioner has placed on record screen shots from the GST portal in respect of the auto-populated GSTR 2A. The said document reflects details of 11 bills of entry. As regards such 11 bills of entry, the confirmed tax demand warrants reconsideration. Upon excluding the tax component relating to the said 11 bills of entry, the disputed tax demand is about Rs.77,59,284/-. Learned counsel for the petitioner, on instructions, submits that the petitioner agrees to remit a sum of Rs.8,00,000/- towards the disputed tax demand as a condition for remand.

5. For reasons aforesaid, the impugned order dated 07.03.2024 is set



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aside on condition that the petitioner remits Rs.8,00,000/- (Rupees Eight lakhs only) towards the disputed tax demand as agreed to within a period of four weeks from the date of receipt of a copy of this order. Subject to being satisfied about the receipt of the said sum, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of three months from the date of receipt of the above sum from the petitioner.

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