IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16036 of 2024
and W.M.P.Nos.17533 & 17534 of 2024

M/s.Arul Rubbers Pvt Ltd.,
(Represented by its Manager –
Commercial Shri.P.Rajasekar)
B-5, SIDCO Industrial Estate,
Hosur, Krishnagiri,
Tamil Nadu 635 126. ... Petitioner

-vs-

Assistant Commissioner (ST),
Hosur (South-1) Assessment Circle,
Commercial Taxes Building,
773, Anna Centenary Building,
Chennathur, Hosur 635 109. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records relating to passing of the impugned order bearing GSTIN:

33AACCA4622M1ZU/2018-19 dated 27.04.2024 passed by the respondent and quash the same.

For Petitioner : Mr.P.Gowtham
for Mr.G.Natarajan

For Respondent : Mr.C.Harsha Raj, AGP (T)

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ORDER

An order dated 27.04.2024 is assailed primarily on the ground that the documents placed on record by the petitioner were not duly taken into consideration. A draft proposal dated 21.12.2023 was received by the petitioner pursuant to an audit. The petitioner replied thereto on 28.12.2023. A show cause notice dated 29.12.2023 was issued shortly after receipt of the petitioner's reply. The petitioner replied to such show cause notice on 29.03.2024. The impugned order was issued thereafter.

2. Learned counsel for the petitioner submits that two issues were dealt with both in the draft proposal and the show cause notice. The first issue related to the turnover of the petitioner as reported in the GSTR 3B return for July 2018-19. He submits that an inadvertent error was committed by reporting Rs.107,59,17,561/- instead of Rs.1,07,59,175/-. He also points out that the error was rectified while filing the GSTR 1 return for July 2018-19 and the reconciliation statement in Form GSTR 9C for the year. In spite of submitting these documents, learned counsel submits that the tax proposal was confirmed on the ground that the petitioner had not submitted the sales list, outward supply invoices and reconciliation statement. He also points out that these documents were not called for.

3. As regards the second issue, learned counsel submits that it related to RCM. Upon noticing that excess RCM of Rs.2,17,148/- had been availed of, he submits that the petitioner reversed such excess availment in the GSTR 3B return for August 2018. He also submits

that this was brought to the notice of the respondent both in the reply to the ASMT 10 notice and in the reply to the show cause notice.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He submits that the petitioner's replies were duly considered and that the tax proposals were confirmed on account of non production of documents such as the sales list and outward supply invoices.

5. The petitioner has placed on record the relevant GSTR 3B, GSTR 1 and GSTR 9C returns. On examining the same cumulatively, it appears *prima facie* that there could have been an inadvertent error. Neither the draft proposal nor the show cause notice referred to the requirement for the sales list and outward supply invoices. In these circumstances, the interest of justice warrants that another opportunity be provided to the petitioner on this issue. As regards the issue relating to RCM, the petitioner stated that the excess RCM

availed of was reversed in August 2018. This aspect is required to be examined by the assessing officer. In order to protect revenue interest on this issue, it is necessary to put the petitioner on terms. On instructions, learned counsel for the petitioner agrees to remit 10% of the disputed tax demand as regards the RCM issue.

6. For reasons aforesaid, impugned order dated 27.04.2024 is set aside on condition that the petitioner remits 10% of the disputed tax demand as regards the RCM issue. Such remittance shall be made within ***fifteen days*** from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to submit additional documents. On receipt thereof and on being satisfied that 10% of the disputed tax demand relating to the RCM issue was received, 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 such additional documents.

7. W.P.No.16036 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.17533 and 17534 of 2024 are closed.

01.07.2024

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

To

Assistant Commissioner (ST),
Hosur (South-1) Assessment Circle,
Commercial Taxes Building,
773, Anna Centenary Building,
Chennathur, Hosur 635 109.

SENTHILKUMAR RAMAMOORTHY,J

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