IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.07.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16092 of 2024
&
WMP Nos.17614 & 17615 of 2024

Tvl. Om Shree Sairam Tyres,
Rep. By its Proprietor Mr.Shankar Vetrivel,
No.249, English Electric Nagar,
Zamin Pallavaram,
Chennai-600 017. ... Petitioner

vs

The State Tax Officer (ST),
Pallavaram Assessment Circle,
Room No.345, Integrated Commercial Taxes Building
Nandanam,
Chennai-600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the records of the respondent order in GSTIN:33AWQPV9755R1Z1/2017-18 along with DRC07 in Ref.No:ZD331123197362L impugned proceedings dated 30-11-2023 and quash the same as illegal, arbitrary and in violation of principles of natural justice.

For Petitioner : Mr.P.V.Ravikumar

For Respondent : Mrs.K.Vasanthamala
Government Advocate (T)

ORDER

Upon scrutiny of the petitioner's returns, a notice in Form ASMT-10 dated 02.08.2023 was issued to the petitioner. The petitioner replied thereto on 28.08.2023. Thereafter, a show cause notice dated 27.09.2023 was received by the petitioner. Such show cause notice was responded to on 20.11.2023. An assessment order was issued thereafter on 30.11.2023. Meanwhile, another show cause notice dated 29.09.2023 was issued in respect of the same assessment period on the same issues. Pursuant thereto, an order dated 26.12.2023 was issued. Such order was carried in statutory appeal by the petitioner on 09.03.2024 by remitting the requisite 10% pre-deposit. Such appeal is pending before the appellate authority. The present writ petition challenges the earlier order dated 30.11.2023.

2. Learned counsel for the petitioner contended that it is not open to the respondent to initiate two proceedings in respect of the same assessment period and the same issues. By referring to the

respective show cause notices and orders, he contends that it is evident that both orders deal with the same issues arising out of the same assessment period.

3. Mrs.K.Vasanthamala, learned Government Advocate, appears on behalf of the respondent. She points out that the petitioner has availed of the statutory remedy in respect of order dated 26.12.2023 and that this writ petition should not be entertained in the facts and circumstances.

4. On perusal of the impugned order, it is evident that the tax proposal related to a mismatch between the petitioner's GSTR 1 and GSTR 3B returns. On comparison of the impugned order with the order dated 26.12.2023, such order is also in respect of the mismatch between the petitioner's GSTR 1 and GSTR 3B returns. The only difference is that interest has been calculated up to 30.11.2023 in the order impugned herein, whereas interest was calculated up to 26.12.2023 in the order dated 26.12.2023. In these circumstances, the order impugned herein, being the earlier order wherein interest was

calculated only up to 30.11.2023, cannot be sustained.

5. Therefore, the impugned order dated 30.11.2023 is set aside by leaving it open to the petitioner to contest the statutory appeal in respect of the order dated 26.12.2023.

6. W.P.No.16092 of 2024 is disposed of on the above terms. Consequently, WMP Nos.17614 & 17615 of 2024 are closed. No costs.

03.07.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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To

The State Tax Officer (ST),

Pallavaram Assessment Circle,
Room No.345, Integrated Commercial Taxes Building
Nandanam,
Chennai-600 035.

SENTHILKUMAR RAMAMOORTHY J.

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