IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **11.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.16856 & 16858 of 2024
and W.M.P.Nos.18538, 18540 & 18543 of 2024

M/s.GRK Plastic
Represented by its Authorized Signatory
Mr.R.Gopinath
No.3, 1st Street, Abhirami Avenue,
KKD Nagar, Kodungaiyur,
Chennai 600 118. ... Petitioner in both WP's

-vs-

The Assistant Commissioner (ST)(FAC)
Kodungaiyur Assessment Circle,
Integrated Commercial Taxes Building
No.32, Elephant Gate Bridge Road,
Chennai 600 003. ... Respondent in both WP's

PRAYER in W.P.No.16856 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records pertaining to the Impugned Assessment Order, containing Reference No. ZD331223270387H dated 30.12.2023 passed by the respondent and quash the same.

PRAYER in W.P.No.16858 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the Impugned Order of Rejection of Application for Rectification dated 29.05.2024, passed by the respondent and quash the same and further direct the respondent to re-consider the petitioner's application for rectification of mistake dated 02.01.2024.

For Petitioner in both WP's	:	Mr.L.Gokulraj for Mr.Hari Radhakrishnan
For Respondent in both WP's	:	Mr.C.Harsha Raj, AGP (T)

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COMMON ORDER

An order in original dated 29.12.2023 is assailed on the ground that the petitioner's replies were not duly taken into consideration.

2. The petitioner had filed the GSTR 3B return for the month of October in the assessment period 2017-18. In such return, the petitioner states that an inadvertent error was committed by reflecting net ITC, as regards Central Tax, as Rs.6,55,561/- instead of Rs.65,561/-. Upon realizing the mistake, it is stated that the petitioner contacted the GST authorities and was informed that the error may be rectified by adding an amount representing the excess ITC shown in the earlier return in the Central Tax toward outward supplies in the GSTR 3B return for the following month. The petitioner states that this course of action was adopted. In spite of submitting replies to the intimation and show cause notice and

explaining the aforesaid, it is stated that the tax proposal was confirmed.

3. Learned counsel for the petitioner invited my attention to the GSTR 3B returns for the month of October and November in assessment period 2017-18 to substantiate the assertion in the affidavit. He also submits that a sum of about Rs.4,47,300/- was recovered from the petitioner's bank account towards the disputed tax demand.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. In view of the appropriation made, he submits that the matter may be remitted for reconsideration.

5. On examining the petitioner's GSTR 3B returns for the month of October and November 2017-18, it appears *prima facie* that an inadvertent error was committed and that such error was rectified,

albeit irregularly. As against the confirmed tax proposal of Rs.6,15,502/-, a sum of Rs.4,47,300/- was recovered from the petitioner's bank account. The facts and circumstances clearly warrant reconsideration.

6. Therefore, impugned order dated 29.12.2023 is set aside and the matter is remanded for reconsideration. 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 a copy of this order. On account of the assessment order being set aside, the challenge to the rectification petition does not survive and is closed. In view of the assessment order being set aside, the bank attachment is raised. For the avoidance of doubt, it is made clear that the sum of Rs.4,47,300/-, which was appropriated from the petitioner's bank account shall abide by the outcome of the remanded proceedings.

7. W.P.Nos.16856 and 16858 of 2024 are disposed of on the above terms. No costs. Consequently, W.M.P.Nos.18538, 18540 and 18543 of 2024 are closed.

11.07.2024

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

To

The Assistant Commissioner (ST)(FAC)
Kodungaiyur Assessment Circle,
Integrated Commercial Taxes Building
No.32, Elephant Gate Bridge Road,
Chennai 600 003.

SENTHILKUMAR RAMAMOORTHY,J

rna

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