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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.07.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17777 of 2024
and W.M.P.Nos.19524 & 19525 of 2024

Arjunan ... Petitioner

-vs-

The Assistant Commissioner (ST),
Mettur Assessment Circle,
Mettur, Tamil Nadu. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records in the impugned order dated 28.12.2023 with reference GSTIN: 33AEZPA2292R1ZS/2017-18 in the files of the respondent and quash the same as manifestly arbitrary, void, contrary and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India.

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For Petitioner : Mr.S.Ramamurthy

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

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ORDER

An order in original dated 28.12.2023 is assailed on the ground that such order is completely unreasoned. Upon receipt of show cause notice dated 22.09.2023 alleging sales suppression, by reply dated 26.09.2023, the petitioner asserted that no taxable supplies were made during financial year 2017-18. The petitioner further asserted that the availment of Input Tax Credit was in accordance with Section 16 and that Rule 30 of applicable GST Rules is not attracted. The impugned order was issued in these facts and circumstances.

2. Learned counsel for the petitioner referred to the petitioner's

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reply and thereafter to the impugned order. He points out that a finding was recorded that the reply and connected documents and records were not acceptable. Since such finding is not supported by reasons, he submitted that interference is warranted.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He submits that the petitioner's reply was considered before confirming the tax proposal. He also submits that the order was issued on 28.12.2023 and that the petitioner approached this Court long after the period of limitation for a statutory appeal expired.

4. In the petitioner's reply to the show cause notice, the petitioner asserts that no consideration was received in financial year 2017-18, which is subject to levy of GST. It is further stated therein that the availment of Input Tax Credit was in conformity with the requirement of Section 16 of applicable GST statutes. In the

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impugned order, such reply was dealt with as follows:

> *"On verification of dealer's reply vide ref 5th with connected documents and records were not acceptable"*

5. The above extract indicates that the conclusion is totally unsupported by reasons. Hence, notwithstanding the fact that the writ petition was filed about three months after the limitation period for filing an appeal had expited, the impugned order cannot be sustained.

6. For reasons aforesaid, impugned order dated 28.12.2023 is set aside and the matter is remanded for re-consideration. The petitioner is permitted to submit an additional reply along with supporting documents within ***fifteen days*** from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within ***three***

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months from the date of receipt of the petitioner's additional reply.

7. W.P.No.17777 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19524 and 19525 of 2024 are closed.

24.07.2024

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

To

The Assistant Commissioner (ST),
Mettur Assessment Circle,
Mettur, Tamil Nadu.

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SENTHILKUMAR RAMAMOORTHY,J

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