IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 18.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17550 of 2024
and W.M.P.Nos.19333 & 19334 of 2024

M/s.Mamta Plastics
Represented by its Proprietor Mr.Nagaram,
No.7, Audiappa Naicken Street, Sowcarpet,
Chennai 600 001. ... Petitioner

-vs-

The Deputy State Tax Officer-2,
Kothawalchavadi Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.327, Elephant Gate Bridge Road,
Chennai 600 003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of the respondent in Order dated 15.12.2023 in GSTN 33AADPC7419A1ZG/2017-18 and quash the same as illegal, arbitrary and in violation of principles of natural justice.

For Petitioner : Ms.C.Rekhakumari

For Respondent : Mr.V.Prashanth Kiran, GA (T)

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ORDER

An order in original dated 15.12.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. Upon receipt of show cause notice dated 24.02.2023, the petitioner replied on 16.06.2023 and stated that Input Tax Credit was claimed as per the purchase invoice and that suppliers' may have uploaded the files in the B2C section on account of lack of knowledge. Impugned order dated 15.12.2023 was issued in these facts and circumstances.

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

reply dated 16.06.2023 and pointed out that the impugned order records erroneously that the petitioner failed to reply to the show cause notice. Without prejudice, on instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing intimation dated 09.02.2023, show cause notice dated 24.02.2023 and by issuing personal hearing notice dated 15.05.2023. As regards the petitioner's reply, he submits that the petitioner did not annex any documents in support thereof and thereby completely failed to discharge the burden under Section 155 of applicable GST statutes.

4. The petitioner's reply is on record. It is evident from such reply that no documents were annexed to establish that all the

purchases were genuine. In the affidavit in support of the writ petition, the petitioner asserts that he could not participate in further proceedings because he did not notice the subsequent communications which were uploaded on the portal. In these circumstances, the interest of justice warrants re-consideration subject to putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 15.12.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand, as agreed to, within ***fifteen days*** from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to submit a reply by annexing all relevant documents. Upon receipt thereof and on being satisfied that 10% of the disputed tax demand 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 the petitioner's reply.

6. W.P.No.17550 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19333 and 19334 of 2024 are closed.

18.07.2024

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

To

The Deputy State Tax Officer-2,
Kothawalchavadi Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.327, Elephant Gate Bridge Road,
Chennai 600 003.

SENTHILKUMAR RAMAMOORTHY,J

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