IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **31.07.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18058 of 2024
and W.M.P.Nos.19833 & 19834 of 2024

Tvl. Jain Timber Traders,
Represented by its Proprietor:
Raichand Jethalal Shah,
No.197, Sydenhams Road, Choolai,
Chennai-600 112. ... Petitioner

-vs-

1. The Assistant Commissioner (ST),
Kodambakkam Assessment Circle,
Office of Assistant Commissioner (ST),
Kodambakkam Assessment Circle,
No.1, 4th floor, PAPJM Annex Building,
Greams Road, Chennai-600 006.

2. The Assistant Commissioner (ST),
Choolai Assessment Circle,
Office of Assistant Commissioner (ST),
Choolai : North-III Chennai North,
No.10, II Floor, Palaniappa Maaligai,
Greams Road, Chennai 600 006. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records on the file of the 2nd Respondent passed in GSTIN:33ACSPS2332M1Z6 / 2017-18 and Summary of the Order in Form GST DRC-07 having Reference No. ZD331223285977Z both dated 30.12.2023 relating to Financial Year 2017-18 and quash the same as illegal, contrary to the provisions of the Act and against the principles of natural justice and fairplay.

For Petitioner : Ms.Pooja Chopda

For Respondents : Mr.V.Prashanth Kiran, Govt. Adv. (T)

ORDER

An order in original dated 30.12.2023 is assailed in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax proposal on merits. The petitioner asserts that GST compliances were entrusted to a consultant. It is further stated that such consultant did not inform the petitioner about the uploading of the show cause notice on the common portal. Consequently, it is stated that the petitioner could not contest the tax proposal on merits.

2. By referring to the impugned order, learned counsel for the petitioner submits that both discrepancy nos.2 and 12 relate to the mismatch between the petitioner's annual return and the reconciliation statement. By referring to the GSTR 9C return, learned counsel submits that the differential taxable value of Rs.6,78,000/- was reported in the GSTR 9C return and taxes in respect thereof were paid. Likewise, as regards discrepancy no.6 relating to ineligible transitional credit, she submits that such credit was reversed on 17.02.2023. As regards interest receipts of Rs.4,12,004/-, it is submitted that such receipts are from fixed deposits and that these receipts are not liable to be taxed under GST laws.

3. Mr.V.Prashanth Kiran, learned Government Advocate, who appears on behalf of the respondents, submits that the petitioner should have reported supplies declared through amendments against part II Sl.No.J of the annual return. He submits that the tax proposal was a consequence of not reporting the same in the annual return. As regards the ineligible transitional credit, he submits that the reversal was done only on 17.02.2023 although the credit was availed of much earlier.

4. The petitioner has placed on record his reconciliation statement. *Prima facie*, this statement indicates that the supplies were declared through amendments for the value of Rs.6,78,000/- and sums of Rs.61,020/- each were paid with regard thereto in respect of CGST and SGST. This amount tallies with the amounts specified in the impugned order in respect of discrepancy no.12. It also appears *prima facie* that the same issue was raised as discrepancy no.2. The petitioner has placed on record an extract from the electronic credit ledger, which indicates *prima facie* that credit was reversed to the extent of Rs.8,42,451/- on 17.02.2023. In these circumstances, reconsideration is warranted subject to putting the petitioner on terms for the failure to participate earlier. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 10% of the disputed tax demand as regards discrepancy no.4 and 5% of the disputed tax demand as regards other discrepancies subject to the qualification that discrepancy nos.2 and 12 be treated as a common discrepancy.

5. For reasons aforesaid, impugned order dated 30.12.2023 is set aside on condition that the petitioner remits 5% of the disputed tax demand

in respect of discrepancy nos.2 and 12 collectively, 5% of the disputed tax demand in respect of discrepancy nos.6 & 9 and 10% of the disputed tax demand in respect of discrepancy no.4 as agreed to. Such remittance shall be made within a period of two weeks from the date of receipt of a copy of this order. The petitioner is permitted to submit a reply to the show cause notice within the aforesaid period. Upon receipt of the petitioner's reply and upon being satisfied that remittances were made by the petitioner as indicated above, the 2nd respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of three months from the date of receipt of the petitioner's reply.

6. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

31.07.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No
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SENTHILKUMAR RAMAMOORTHY,J

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To

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