IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18068 of 2024
and W.M.P.Nos.19858 & 19861 of 2024

Mayuri Electronics Pvt Ltd
Represented by its Director
C.Anandh, 171/1, Co-Operative Colony,
Mohanur Road, Namakkal 637 001. ... Petitioner

-vs-

The Assistant Commissioner (Town)
Namakkal Town Circle,
Goods and Service Tax (GST)
Namakkal 637 001. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order of the respondent in GSTIN: 33AAICM3674R1ZS/2018-2019 dated 23.04.2024 along with the

Order and Summary of the order in Form GST DRC-07 in Ref.No. ZD3304241734410 dated 23.04.2024 and quash the same and consequently direct the respondent to entertain the records, documents and reply from the petitioner and then pass order after affording a personal hearing to the petitioner.

For Petitioner	:	Mr.S.Raveekumar for Mr.M.Hariharan
For Respondent	:	Mr.V.Prashanth Kiran, GA (T)

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ORDER

An order dated 23.04.2024 is challenged in this writ petition. The petitioner received show cause notice dated 24.01.2024 calling upon the petitioner to show cause in respect of alleged sales suppression on account of the disparity between the purchase turnover and the sales turnover. The petitioner replied to such show cause notice on 22.02.2024. By such reply, the petitioner denied that there was sales suppression. The petitioner also stated that Section

15 read with Rule 30 is inapplicable. A copy of the audited profit and loss account for the financial year ended on 31.03.2019 was provided. The impugned order was issued in these facts and circumstances.

2. Learned counsel for the petitioner referred to the impugned order and pointed out that the said order extracted the petitioner's reply and thereafter recorded findings which are unsupported by reasons. In particular, he submits that the respondent failed to record reasons for rejecting the petitioner's explanation.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that the petitioner was called upon to submit several documents such as credit and debit notes, delivery challans that were received or issued, but that the petitioner failed to provide such documents. In those circumstances, he submits that the tax proposal was confirmed by recording that the petitioner failed to submit lorry receipts and other relevant

documents to establish in transit purchases.

4. The tax proposal, in the case at hand, pertained to alleged sales suppression. Such sales suppression was alleged in respect of a registered person which had filed returns. In those circumstances, the burden of proof to establish that the outward supply was not as per the GST returns of the petitioner was on the respondent. The petitioner is a private limited company and had placed on record the audited financial statement for the year ended 31.03.2019. While there are minor differences between the outward sales value reported in such financial statement and the amounts specified in the petitioner's reply to the show cause notice, such difference was not the basis for the impugned order. Instead, the impugned order proceeded by drawing on the purchase value reflected in the auto populated GSTR 2A and adding 10% thereto. Apart from specifying that lorry receipts were not provided by the petitioner, no reasons are discernible from the impugned order for confirming the tax proposal. Hence, the impugned order cannot be sustained.

5. For reasons aforesaid, impugned order dated 23.04.2024 is set aside and the matter is remanded for re-consideration. The petitioner is permitted to submit additional documents, if any, within ***two weeks*** 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 months*** from the date of receipt of additional documents from the petitioner.

6. W.P.No.18068 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19858 and 19861 of 2024 are closed.

30.07.2024

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

SENTHILKUMAR RAMAMOORTHY,J

rna

To

The Assistant Commissioner (Town)
Namakkal Town Circle,
Goods and Service Tax (GST)
Namakkal 637 001.

W.P.No.18068 of 2024
and W.M.P.Nos.19858 & 19861 of 2024