



W.P.No.8133 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 26.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8133 of 2024 and
W.M.P.No.9083 of 2024

M/s.Sri Kumaran Steels,
Represented by its Proprietor R.Sathish Kumar,
502/1F, Rajiv Gandhi Street,
Balamurugan Nagar, Ganapathy,
Coimbatore-641 006.

...Petitioner

Vs.

The Deputy State Tax Officer-I,
Saravanampatti West Circle,
Coimbatore-641 018.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the impugned proceedings of the respondent in GSTIN:33CPTPS9860N1ZN/2019-2020 dated 14.08.2023 and quash the same.

For Petitioner : Ms.R.Harishni
for Mr.S.Rajasekar

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



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ORDER

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An order dated 14.08.2023 is assailed on the ground that the petitioner's reply to the intimation dated 07.05.2023 was disregarded.

2. The petitioner deals in steel contracts. Upon examining returns filed by the petitioner, an intimation in Form GST DRC-01A was issued to the petitioner on 04.05.2023. The petitioner replied thereto on 07.05.2023 by annexing several documents to establish the genuineness of supplies received by the petitioner. Thereafter, a show cause notice dated 14.06.2023 was issued. The petitioner asserts that he was unaware of such show cause notice because it was uploaded in the “Additional Notices and Orders” tab on the GST portal. The impugned order was issued thereafter on 14.08.2023. After filing a rectification petition on 19.01.2024, the present writ petition was filed.

3. Learned counsel for the petitioner referred to the petitioner's reply dated 07.05.2023, including proof of uploading of such reply along with attachments. By turning to the impugned order, she pointed out that the respondent concluded that the petitioner had not submitted documents to establish the movement of goods. In the face of documents attached to



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the petitioner's reply to the intimation, she contended that such findings are unsustainable.

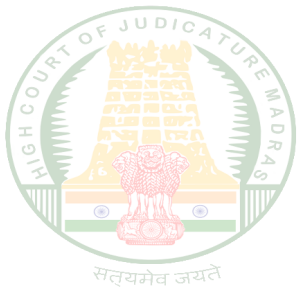
4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that the impugned order was issued because the petitioner failed to reply to the show cause notice.

5. The reply dated 07.05.2023 of the petitioner is on record. In such reply, the petitioner refuted the liability and enclosed copies of the invoice, weighment slips, e-way bills, ledger copy and payment details relating to the relevant supplies. The petitioner also placed on record the evidence that the said reply was uploaded along with attachments. In the operative portion of the impugned order, it is recorded as under:

“The dealer had not furnished any documents and had failed to establish the movement of goods under Section 16(2)(b) for physical possession/actual receipt of goods. The following documents were not submitted to substantiate their claim of credit in legitimate manner.

Lorry receipts, Trip sheet, Toll payments

Stock inward and outward register for purchases and sales.



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Section 155 of the TNGST Act clearly mandates, the burden of proof lies on such person to prove that he is eligible for the ITC under this Act. In this case, the dealer had failed to prove his eligibility for such input tax credit.”

In view of documents annexed to the petitioner's reply to the intimation, the above conclusions are unsustainable.

6. For reasons set out above, the impugned order is quashed and the matter is remanded to the respondent for reconsideration. The petitioner is permitted to file a reply to the show cause notice dated 14.06.2023 within a period of 15 days from the date of receipt of a copy of this order by annexing all relevant documents once again. 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 a period of two months from the date of receipt of the petitioner's reply.

7. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petition is



closed.

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

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To

The Deputy State Tax Officer-I,
Saravanampatti West Circle,
Coimbatore-641 018.

SENTHILKUMAR RAMAMOORTHY,J.

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