



W.P.No.4211 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 23.02.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.4211 of 2024
and W.M.P.Nos.4524 & 4526 of 2024

Tvl. Orange Sorting Machines (India) Private Limited
Represented by Authorized Signatory
Mr.Srinivasan Shanmugam
SF.No.90/3, Aadhavan, Industrial Estate,
Athipalayam Road, Chinnavedampatti
Coimbatore 641 049.

... Petitioner

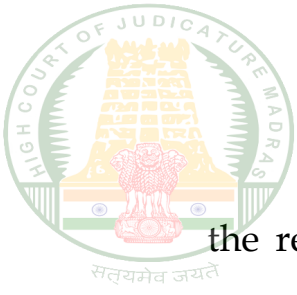
-VS-

1.Assistant Commissioner
O/o. Assistant Commissioner
Annur Circle,
Coimbatore.

2.Deputy State Tax Officer-I
Annur Circle, Coimbatore - 18.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for



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the records of the second respondent's order 29.12.2023 in GSTIN:

33AAACO7124L1ZH/17-18 and quash the same and further direct the respondents to refrain from taking any action against the petitioner for determination of liability for the year 2017-18 under Section 73 of the Central Goods & Services Tax Act / State Goods & Services Tax Act.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mr.T.N.C.Kaushik, AGP (T)

ORDER

The petitioner challenges an order dated 29.12.2023 by which it was held that the petitioner is liable to pay a total sum of Rs.3,84,922/- towards an erroneous refund.



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2. The petitioner asserts that it is engaged in manufacturing machines. In relation to the purchase of raw materials for such activity, it is stated that there is accumulation of unutilized ITC on account of inverted duty structure. Consequently, claims for refund were made and received. Pursuant to a show cause notice dated 22.09.2023, the petitioner replied and requested for a break-up of the sum of Rs.7,51,961/-, which was specified therein as being an erroneous refund. The respondents did not provide the requested break-up and instead proceeded to issue the impugned order.

3. By inviting my attention to the show cause notice, learned counsel for the petitioner submits that said notice is bereft of particulars as to how the sum of Rs.3,75,981/- was arrived at. Therefore, he states that the petitioner asked for particulars so as to enable the petitioner to send an appropriate reply. Without providing any particulars, he submits that the impugned order was issued.



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WEB COPY 4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondents. By referring to both the intimation and the show cause notice, he submits that it is stated therein that a sum of Rs.7,51,961/- was the excess refund on account of inverted duty structure.

5. The show cause notice does not provide any particulars beyond stating that an excess refund of Rs.7,51,961/- was made to the petitioner on account of inverted duty structure. By reply dated 18.12.2023, the petitioner pointed that the break-up for the amount claimed in the show cause notice was not provided in spite of follow up. Therefore, the petitioner once again requested for particulars. The impugned order was issued without providing such particulars. On examining the impugned order, it is noticeable that the only reason specified therein is that the CAG para pointed out that the

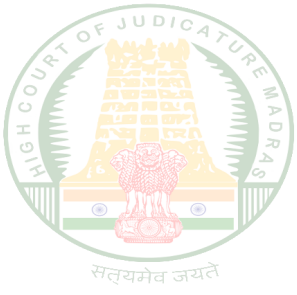


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taxpayer was issued excess refund on account of inverted duty structure and that the excess amount is Rs.7,51,961/-.

6. Unless the show cause notice sets out sufficient particulars to enable the assessee to understand the nature of claim being made against such assessee, it is not possible for such assessee to respond in a meaningful way to the show cause notice. In this case, as discussed above, both the show cause notice and the impugned order are bereft of particulars. Therefore, the order calls for interference.

7. Hence, the impugned order is quashed and the matter is remanded for re-consideration. The respondents are directed to issue a fresh show cause notice to the petitioner setting out all relevant particulars so as to enable the petitioner to respond thereto. Further proceedings shall be taken thereafter in accordance with law.



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8. W.P.No.4211 of 2024 is disposed of on the above terms. No

costs. Consequently, W.M.P.Nos.4524 and 4526 of 2024 are closed.

23.02.2024

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

1.Assistant Commissioner

O/o. Assistant Commissioner

Annur Circle,

Coimbatore.

2.Deputy State Tax Officer-I

Annur Circle, Coimbatore - 18.



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SENTHILKUMAR RAMAMOORTHY,J

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