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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10482 of 2024

&

WMP Nos.11483 & 11484 of 2024

M/s.Jayanthi Plastics (Defunct),
Rep. By it Proprietor - M.R.Venkatachalam,
No.27A, Vivekanandar Salai,
Nasiyanur Road,
Erode 638 011.

... Petitioner

-vs-

The Deputy State Tax Officer-2,
Chithode Assessment Circle,
Erode.

... 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 on the files of the Respondent impugned Notice in Form GST DRC-01 in GSTIN: 33AAEFJ6768N1ZS bearing Reference No.ZD3312232513410 dated 28.12.2023 issued by the Respondent for the Tax Period April, 2018 to March, 2019 and quash the same.

For Petitioner : Ms.R.Harishni

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For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

ORDER

Show cause notice dated 28.12.2023 is challenged on the ground that one of the issues raised therein, i.e. difference in output tax liability between GSTR-1 and GSTR-3B returns, was the subject of order dated 23.12.2023.

2. The petitioner states that an order dated 23.12.2023 was issued in respect of difference in output tax liability as between the petitioner's GSTR-1 and GSTR-3B returns. In these circumstances, the present writ petition was filed because a show cause notice dated 28.12.2023 was issued in respect of three issues, including reconciliation of GSTR-1 and GSTR-3B.

3. Learned counsel for the petitioner referred to the earlier order dated 23.12.2023 and pointed out that the tax proposal in



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respect of the said discrepancy was confirmed by such order and that the petitioner intends to challenge such order by separate proceedings. Once an issue is decided by an assessment order, learned counsel contends that the same issue cannot be re-opened in the impugned show cause notice.

4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She submits that the show cause notice was issued pursuant to a scrutiny. She also points out that such notice has been issued by the Deputy Commercial Tax Officer and that it covers three issues.

5. On examining earlier order dated 23.12.2023 and the impugned show cause notice, it is clear that they pertain to assessment period 2018-19. The first issue in the impugned show cause notice is the same issue determined under order dated 23.12.2023. Undoubtedly, it is not open to the respondent to reopen the same issue after issuing the order dated 23.12.2023.



WEB COPY 6. In these circumstances, W.P.No.10482 of 2024 is disposed of by directing the petitioner to respond to the show cause notice only insofar as it pertains to the issues of under declaration of ineligible ITC and invalid ITC under Section 16(4). As regards the issue relating to reconciliation of GSTR-1 and GSTR-3B, the impugned show cause notice is set aside to that extent. It is made clear that all contentions are left open to the petitioner while responding to the show cause notice. Consequently, connected miscellaneous petitions are closed. No costs.

18.04.2024
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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No
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To
The Deputy State Tax Officer-2,
Chithode Assessment Circle,
Erode.

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SENTHILKUMAR RAMAMOORTHY,J

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