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W.P.No.594 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12.01.2024**

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition No.594 of 2024
and W.M.P.Nos.577 & 578 of 2024

Ingram Micro India Pvt. Ltd.,
Represented by Shri.Rajat Kumar Samal,
Director Finance, Branch MF7,
CIPET Hostel Road, Guindy,
Chennai-600 032.

... Petitioner

-VS-

State Tax Officer,
Guindy Assessment Circle,
Room No.253, 2nd floor,
Integrated Building for CT &
Registration Department,
Nandanam, Chennai-600 035.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorari calling for record relating to the impugned order bearing reference GST No.33AABCT1296R1ZU/2017-2018 dated 21.12.2023 passed by the respondent and quashing the same, as

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the impugned order being arbitrary, illegal, having been passed in violation of the principles of natural justice and also in violation of the second proviso to clause (d) of sub-section (2) of Section 16 of the GST Acts and also in contravention of Articles 14, 19(1)(g) and 265 of the Constitution of India.

For Petitioner : Mr.G.Natarajan

For Respondent : Mrs.K.Vasanthamala
Government Advocate

ORDER

The petitioner challenges an order dated 21.12.2023 in respect of the assessment year 2017-2018.

2. The petitioner stated that it is a registered person under GST laws and that it had claimed Input Tax Credit (ITC) under Section 16 of the CGST Act. In respect thereof, it is stated that a show cause notice was issued with regard to non-payment to the suppliers for a period exceeding 180 days. In spite of the petitioner replying thereto and providing all supporting documents, including the Chartered Accountant's certificate dated 20.12.2023, learned counsel for the petitioner submits that the impugned order came to be issued on the basis of the total trade payables of



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the petitioner.

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3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice on behalf of the respondent. She submits that the total trade payables of the company were taken into consideration because the petitioner did not provide a proper break up of net trade payable relating to the State of Tamil Nadu.

4. In the impugned order, it is recorded as under with regard to the alleged trade payables of Rs.2704.1 Crores:

“Findings of the Assessing Authority:

The tax payer has stated that the creditors noticed from PAN India basis. They have not produced Tamil Nadu financial statement. They have simply stated in their contention there is no such payment pending to their supplier. In the absence of such records, contention put-forth by them is not acceptable. The proposal is hereby confirmed.”

From the above extract, it follows that the assessing officer concluded that the entire trade payables of the company across India should be taken as the



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trade payables because the petitioner did not provide Tamil Nadu financial statements.

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5. Under the Companies Act, 2013, every company is required to file financial statements in respect of its entire operations and there is no provision for filing State-specific financial statements. However, the petitioner has submitted a certificate from a Chartered Accountant stating that the trade payables attributable to the State of Tamil Nadu are Rs.1816.48 millions. Learned counsel for the petitioner also submits that the petitioner would provide all the invoices issued by the suppliers with regard to the aggregate sum of Rs.1816.48 millions.

6. The assessing authority has clearly not applied its mind before drawing the conclusions extracted above. Therefore, the impugned order is liable to be and is hereby quashed. Consequently, the matter is remanded for reconsideration by the assessing authority. The assessing authority is directed to take into consideration all relevant documents produced by the petitioner, provide a reasonable opportunity to the petitioner and issue a



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fresh order within a period of two months from the date of receipt of a copy

of this order. The writ petition is allowed on the above terms. There will be

no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

12.01.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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To

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