



IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: **01.04.2024**

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

**W.P.No.8489 of 2024**  
**and W.M.P.Nos.9437 & 9439 of 2024**

Tvl. AP Foundries Private Limited,  
Rep. by its Managing Director,  
23-A, Coindia-Cosmahan,  
Foundry Cluster Complex-1,  
Arasur, Coimbatore 641 407.

... Petitioner

-vs-

Assistant Commissioner (ST)(FAC),  
Karumathampatti Assessment Circle,  
Tiruppur-II.

... Respondent

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the entire records relating to the order in Reference No. ZD3304231231218 dated 26.04.2023 passed by the Respondent and quash the same.



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For Petitioner : Mr.T.Ramesh

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

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### ORDER

An order dated 25.04.2023 is challenged in this writ petition. The petitioner was a registered dealer under the Tamil Nadu Value Added Tax Act, 2006. In relation to purchases under the said enactment, the petitioner had availed of transitional credit to the extent of Rs.1,20,963.61/-. In relation thereto, the petitioner received a show cause notice. Such show cause notice was replied to on 14.02.2023 seeking a break-up of the alleged ineligible Input Tax Credit. The impugned order was issued in the said facts and circumstances.



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**WEB COPY** 2. Learned counsel for the petitioner referred to the details of purchases made by the petitioner and pointed out that all relevant details such as invoice number, invoice date, commodity code, purchase value, amount of tax paid, etc is contained therein. He also submits that transitional credit was denied under the impugned order solely on account of alleged default by the supplier concerned. He seeks an opportunity to be heard in relation to the tax demand.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that the break-up was provided. In order to substantiate this contention, he has handed over a screen shot from the portal.

4. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 10% of the tax demand as a condition for remand.



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**WEB COPY** 5. From the impugned order, it appears that the tax demand was confirmed solely because the tax payer neither paid the tax nor appeared at the personal hearing after receipt of break-up details on 05.04.2023. Since the petitioner has asserted that he was entitled to avail of transitional credit by enclosing details of the relevant supplies and taxes paid thereon, it is just and appropriate that the petitioner be provided an opportunity to contest the tax demand albeit by putting the petitioner on terms.

6. For reasons set out above, the impugned order dated 26.04.2023 is quashed subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to within *two weeks* from the date of receipt of a copy of this order. Within the aforesaid period, the petitioner is also permitted to submit a reply to the show cause notice along with all the relevant documents. Upon receipt of the reply and upon being satisfied that 10% of the disputed



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tax demand was received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within *two months* from the date of receipt of the petitioner's reply.

7. W.P.No.8489 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.9437 and 9439 of 2024 are closed.

**01.04.2024**

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

**To**

Assistant Commissioner (ST)(FAC),  
Karumathampatti Assessment Circle,  
Tiruppur-II.



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**SENTHILKUMAR RAMAMOORTHY,J**

rna

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