IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **12.02.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.3084 of 2024
and W.M.P.Nos.3369 & 3370 of 2024

G.V. Construction,
(presently known as Sri Ragavendra Construction),
Represented by its Managing Partner
Gunasekaran, No.32G/18, TAB complex,
Bye-pass road, Vettavalam Road,
Tiruvannamalai-606 601. ... Petitioner

-vs-

1.The Commissioner of Commercial Taxes,
Office of the Principal and Special Commissioner,
of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-600 005.

2.The Assistant Commissioner (ST),
Thiruvannamalai-II Assessment Circle,
Integrated Commercial Tax Offices,
2nd floor, Vengikkal,
Tiruvannamalai-606 604. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records on the file of the 2nd respondent and quash the impugned order passed by the 2nd respondent against the petitioner under Section 73 read with Section 122(2)(a) of the Act in Reference No.ZD330923208923C dated 27.09.2023 for the tax period April 2019 to March 2020.

For Petitioner : Mr.R.Kannan

For Respondents : Mr.T.N.C.Kaushik, Additional Govt. Pleader (T)

ORDER

The petitioner assails an assessment order dated 27.09.2023.

2. The petitioner is a registered person under applicable GST laws. In respect of financial year 2019-2020, the petitioner had filed GST returns. In respect thereof, an intimation in Form GST DRC-01A was issued on 20.02.2023. This was followed by a show cause notice in Form GST DRC-01 dated 18.07.2023. Eventually, the order impugned herein was issued on 27.09.2023.

3. Learned counsel for the petitioner contends that the impugned order was issued without issuing notice in Form GST ASMT-10. He further submits that Input Tax Credit (ITC) was taken by the petitioner as of

31.03.2020 and that such credit should not have been reversed solely on the ground that the return was filed belatedly. He also submits that the impugned order warrants interference because the principles of natural justice were violated.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice on behalf of respondents. He submits that the petitioner was provided a reasonable opportunity to show cause and that the petitioner failed to avail of such opportunity. He also submits that the petitioner has a statutory remedy and has instead approached this Court.

5. The documents on record reveal that the impugned assessment order was issued after issuing intimation dated 20.02.2023 and show cause notice dated 18.07.2023. Thus, it appears that the petitioner was provided an opportunity to contest the tax demand, but failed to do so. The impugned order was issued on 27.09.2023. Consequently, the period of limitation would ordinarily expire on 26.12.2023. The appellate authority has the power to condone a further 30 days' delay. Such period ended on or about

26.01.2024. Given the fact that the delay beyond such period is only about 15 days, this writ petition is disposed of by directing the appellate authority to receive and dispose of the appeal on merits, if such appeal is filed by the petitioner within a maximum period of ten days from the date of receipt of a copy of this order. It is needless to say that the petitioner would be required to remit 10% of the disputed tax demand as a precondition in relation to such appeal. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

12.02.2024

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

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To

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SENTHILKUMAR RAMAMOORTHY,J.

Kj

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