IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.2837 of 2024
and W.M.P.Nos.3090 and 3091 of 2024

A.John Peter ... Petitioner

-vs-

1.The State Tax Officer,
Sowcarpet Assessment Circle,
Integrated Building for
Commercial Taxes Department,
Chennai North Division,
No.32, Elephant Gate Bridge Road,
Vepery, Chennai 600 003.

2.The Deputy Commercial Tax Officer,
Sowcarpet Zone-I, Chennai North
Wall Tax Road, Chennai 600 003.

3.The Superintendent of GST & Central Excise
Range-V, Royapuram Division
459, Ananda Complex, 2nd Floor,
Teynampet, Anna Salai, Chennai 600 018.

4.The State Tax Officer,
Group-IV / Inspection
Intelligence-I,

Greams Road, Chennai 600 006. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the second respondent dated 13.07.2023 bearing Ref.No.ZD3307230535992 along with summary of the order in Form GST DRC-07 and bearing Ref.No.ZD3307230535992 and consequent urgent notice of non-payment of GST arrears issued by the first respondent dated 15.12.2023 bearing GSTIN: 33CFEPJ5820A1Z3 for the assessment period April 2020 to March 2021 vide Ref.No.ZD3307230535992 and April 2021 to March 2022 vide Ref.No.ZD330723053627B and April 2022 to August 2022 vide Ref.No.ZD330723053665B and quash the same as arbitrary illegal.

For Petitioner : Mr.V.R.Kamalanathan
for R.Mani Barath

For Respondents : Mr.C.Harsha Raj, AGP (T)

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ORDER

The petitioner assails an assessment order dated 13.07.2023 and proceedings consequential thereto. The petitioner asserts that he was carrying on trade in the wholesale and retail of bags under the name and style of M/s.Aaron Traders. Upon deciding to close the business, it is stated that an application for cancellation of the GST registration was submitted on 10.10.2022 to the third respondent; such application was accepted and an order of cancellation was issued on 23.11.2022. The petitioner further asserts that he was shocked to receive demand notices dated 15.12.2023 for non-payment of GST arrears. Thereafter, he realized that an assessment order was issued on 13.07.2023 without providing an opportunity to raise objections with regard to such assessment. The present writ petition was filed in the said facts and circumstances.

2. Learned counsel for the petitioner invited my attention to the order of cancellation of registration dated 23.11.2022. He pointed out that the said order discloses that there are no tax dues. He also pointed out that the petitioner did not have reason to access the portal after cancellation of the GST registration. Therefore, he contends that the orders impugned herein were issued without providing a reasonable opportunity to the petitioner.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice on behalf of the respondents. He submits that the petitioner voluntarily applied for cancellation of registration on 10.10.2022. Since the petitioner was subject to the jurisdiction of Central GST authorities, he further submits that the order of cancellation was issued by a Central GST authority, and that the State GST authorities were not involved in the said exercise. By referring to the final return of the petitioner, which was filed on 17.03.2023, learned Additional Government Pleader submits that this constitutes

evidence that the petitioner continued to have access to the GST portal. Consequently, it is submitted that the petitioner should have periodically checked the portal and, if he had done so, he would have seen the intimation and show cause notice that preceded the assessment order.

4. The order of cancellation of registration was issued on 23.11.2022 pursuant to an application made by the petitioner on 10.10.2022. The final return is on record, and this document clearly indicates that such return was filed after the cancellation of registration on 17.03.2023. Nonetheless, in view of the cancellation of registration, it is likely that the petitioner would not have reason to access the portal in the manner that a registered person would be required to. In any event, the assessment order discloses that the petitioner did not participate in proceedings culminating in such

assessment order. For this limited reason, the impugned order warrants interference.

5. Therefore, the assessment order is quashed and so are the notices issued pursuant thereto. As a consequence, the matter is remanded for re-consideration by the first respondent. The petitioner is directed to submit a reply to the show cause notice in Form DRC-01 within a maximum period of ***two weeks*** from the date of receipt of a copy of this order. Upon receipt thereof, after providing a reasonable opportunity to the petitioner, including a personal hearing, the assessing officer is directed to issue a fresh assessment order within a maximum period of ***two months*** from the date of receipt of the petitioner's reply.

6. W.P.No.2837 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.3090 and 3091 of 2024 are closed.

09.02.2024

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

To

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SENTHILKUMAR RAMAMOORTHY,J

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