IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **15.02.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.3435 of 2024
and W.M.P.No.3695 of 2024

M/s.Lucky Traders,
Its Proprietor Mrs.Saira Shaik,
GSTIN/ID:33DJCPS8001M1Z2,
No.1/2, Basement 1,
3rd cross street, Kasthuribhai Nagar,
Adayar, Chennai-600 020. ... Petitioner

-vs-

The State Tax Officer, Group-IX,
Office of Deputy Commissioner (ST),
Inspection-II,
First floor, PAPJM Buildings,
No.1, Greams Road, Chennai-600 006. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records pertaining to the order No.33DJCPS8001M1Z2-2017-2018 dated 29.03.2021 passed by the respondent and quash the same and/or pass any appropriate directions.

For Petitioner : Mr.E.Shankar Ganesh

For Respondent : Mr.V.Prasanth Kiran, Govt. Advocate (T)

ORDER

The petitioner challenges an assessment order dated 29.03.2021 primarily on the ground that she was not provided a reasonable opportunity to contest the tax demand.

2. Learned counsel for the petitioner submits that the petitioner intends to file an appeal against the impugned order, if she is permitted to do so under Notification No.53/2023-Central Tax dated 02.11.2023 (Notification No.53/2023).

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice on behalf of the respondent. He submits that the impugned order was issued after providing a reasonable opportunity to the petitioner, including by way of show cause notice which was served on the petitioner in March 2021. He also points out that the assessee appeared before the assessing officer on 16.03.2021 and that in spite of being provided hearing

opportunities thereafter, the assessee chose not to appear.

4. Notification No.53/2023 has been placed on record. The said notification is applicable to assessment orders issued on or before 31.03.2023. The assessment order in this case was issued on 29.03.2021. The said Notification applies to assessees who could not file an appeal within the time limit specified in Section 107 of the applicable GST enactment or whose appeal was rejected solely on the ground of delay. The petitioner herein would fall within the first category. As per the Notification, such appeals may be received if filed on or before 31.01.2024. In the case at hand, the petitioner presented this writ petition on 09.01.2024, which is prior to 31.01.2024. In these circumstances, the petitioner makes out a case to exclude the period when the writ petition had been filed and was pending before this Court. If such period is excluded, the petitioner is in a position to present and prosecute an appeal in terms of Notification No.53/2023.

5. Therefore, without expressing any opinion on the merits of the

matter, the petitioner is granted leave to present an appeal in terms of Notification No.53/2023 provided such appeal is filed within a maximum period of seven days from the date of receipt of a copy of this order and subject to fulfilment of conditions specified in Notification No.53/2023. If the appeal is filed in compliance with the above conditions, the appellate authority shall receive and dispose of such appeal on merits.

6. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

15.02.2024

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

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SENTHILKUMAR RAMAMOORTHY,J.

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To

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Office of Deputy Commissioner (ST),
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