IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 14.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.3188 of 2024
and W.M.P.Nos.3451 & 3455 of 2024

TVL.Indian Leathers,
Represented by S.N.Sekar Sole Proprietor,
No.28/11 va kareem road,
Ambur, Vellore - 635 802. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Ambur Assessment Circle,
Commercial Taxes Department,
Ambur, Vellore District. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent order dated 22.09.2023 in GSTIN 33BJAPS6772F123 and quash the same and consequently direct the respondent to redo the fresh assessment.

For Petitioner : Mr.K.Narayanan

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

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ORDER

The petitioner assails an assessment order primarily on the ground that he was not provided a reasonable opportunity to contest the tax demand.

2. The petitioner states that he is engaged in the business of dealing in leather products and that he is a registered person under applicable GST laws. Since the intimation and show cause notice were uploaded on the GST portal and the same was not brought to the notice of the petitioner by his auditor, the petitioner asserts that he was unaware of the initiation of proceedings against him.

3. The petitioner further states that he became aware of such proceedings only upon the impugned order being provided by the auditor in the last week of January 2024. Learned counsel for the petitioner submits that ITC was reversed on the ground that the supply made to the petitioner was not genuine, whereas the petitioner currently possesses relevant documents to establish that the purchases made by the petitioner were genuine. Therefore, he submits that a further opportunity be provided to the petitioner.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice on behalf of the respondent. He points out that the petitioner was provided sufficient opportunity to respond both to the intimation and show cause notice, but that the petitioner failed to avail of such opportunities.

5. The documents on record, including the assessment order, clearly indicate that the petitioner did not participate in proceedings.

Consequently, the petitioner did not place on record documents to corroborate the assertion that the transaction was genuine. The relevant tax invoices and e-way bills have been placed on record in the typed set filed by the petitioner. In these circumstances, the interest of justice warrants the provision of a further opportunity to the petitioner, albeit by putting the petitioner on terms.

6. Solely with a view to provide a reasonable opportunity to the petitioner to contest the tax demand, the order impugned herein is quashed subject to the condition that the petitioner remits 10% of the disputed tax demand within a period of ***two weeks*** from the date of receipt of a copy of this order. Subject to fulfilment of the above condition, the assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh assessment order within a maximum period of ***four weeks*** from the date of fulfilment of the above conditions by the petitioner.

7. W.P.No.3188 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.PNos.3451 and 3455 of 2024 are closed.

14.02.2024

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

To

The Assistant Commissioner (ST),
Ambur Assessment Circle,
Commercial Taxes Department,
Ambur, Vellore District.

SENTHILKUMAR RAMAMOORTHY,J

rna

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