IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **15.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.3477 of 2024
and W.M.P.Nos.3730 & 3731 of 2024

APS Computers Private Limited,
Represented by its Director,
B.Sushil Kumar Jain,
No.F-7, C-9, KAJ Plaza,
No.7 Narasingapuram Street,
Chennai-600 002. ... Petitioner

-vs-

Assistant Commissioner (ST) (FAC),
Chepauk Assessment Circle,
Integrated Buildings for Commercial Taxes
& Registration Department, II floor,
Room No.203/248, Nandanam,
Chennai-600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the impugned order of the respondent passed in GSTIN:33AAHCA9899F1Z7 in Form GST DRC-07-Annexure dated 28.12.2023 and quash the same.

For Petitioner : Mr.N.Murali

For Respondent : Mrs.K.Vasanthamala, Government Advocate(T)

ORDER

The petitioner challenges an order dated 28.12.2023 on the ground of breach of principles of natural justice.

2. The petitioner states that the notice dated 13.10.2023 in respect of assessment period 2017-2018 was received and that such notice could not be replied to on account of criminal proceedings being initiated against one of the directors of the petitioner. Eventually, after a reminder dated 23.12.2023 was received calling for a reply on or before 03.01.2024, while the petitioner was in the process of preparing such reply, the impugned assessment order came to be issued on 28.12.2023.

3. Since the impugned assessment order was issued without awaiting the reply and before the time limit for filing the reply was expired, learned counsel submits that the impugned assessment order is liable to be quashed and that the matter be remanded for reconsideration.

4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice on behalf of the respondent. She submits that the matter may be

remanded so as to provide an opportunity to the petitioner to respond to the show cause notice.

5. On examining the reminder dated 23.12.2023, it is abundantly clear that the petitioner was permitted time to reply until 03.01.2024, whereas, the assessment order was issued on 28.12.2023. Therefore, the petitioner was not provided a reasonable opportunity to contest the tax demand and, consequently, the impugned order calls for interference.

6. Hence, the impugned order dated 28.12.2023 is quashed and the matter is remanded for reconsideration. The petitioner is permitted to file a reply to the show cause notice within a maximum period of two weeks from the date of receipt of a copy of this order. After providing a personal hearing to the petitioner, the respondent 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.

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

closed.

15.02.2024

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

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To

Assistant Commissioner (ST) (FAC),
Chepauk Assessment Circle,
Integrated Buildings for Commercial Taxes
& Registration Department, II floor,
Room No.203/248, Nandanam,
Chennai-600 035.

SENTHILKUMAR RAMAMOORTHY,J.

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