IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.4677 of 2024
and W.M.P.Nos.5105 & 5107 of 2024

Tvl. Sri Balamurugan Agency,
Rep. by its Proprietor - Raja Ranjithkumar,
No.624, K.S.Road,
Kavaraipettai,
Gummudipondi,
India - 601 206. ... Petitioner

-vs-

Deputy State Tax Officer - 1,
Gummidipoondi Assessment Circle,
Chennai North Division,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai 600 003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the impugned order in Form GST DRC-07 bearing Ref. No.ZD3307230876073 read with the detailed order in 33BAZPR6403E1ZG/2021-22 dated 21.07.2023, issued by the respondent and quash the same.

For Petitioner : Mr.D.S.Vipula

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

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ORDER

The petitioner assails the assessment order dated 21.07.2023 primarily on the ground of breach of principles of natural justice. The petitioner asserts that he carries on the business of trading in blue metal and soil and that he has limited knowledge of statutory compliances. It is further stated that the petitioner received a call on 28.12.2023 from the State GST informing him about the outstanding GST liability of Rs.10,40,918/- along with interest and penalty thereon. Immediately, the petitioner spoke to his accountant and thereafter came to know about the proceedings culminating in the assessment order.

2. Learned counsel for the petitioner submits that the show cause notice and impugned order were uploaded on the GST portal, but that the same were not otherwise communicated to the petitioner. On account of non receipt of the above communications, it is stated that the petitioner, who is a small business person, was deprived of the opportunity to contest the tax demand. On the merits, learned counsel submits that the ITC availed of by the petitioner was disallowed on the ground that it is unrelated to his business, whereas the purchase made by the petitioner was of a tipper lorry used in course of business. Learned counsel further submits that the petitioner is ready and willing to deposit 10% of the disputed tax demand as a condition for remand.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. By referring to the impugned order, he points out that the assessment order came to be issued after issuing a notice in Form ASMT-10, an intimation in Form GST DRC-01A and the show cause notice. Therefore, he contends that principles of natural justice were adhered to.

4. From the averments in the affidavit, it appears that the petitioner undertakes business on a small scale. The documents on record, including the assessment order, disclose that the petitioner did not participate in proceedings and, therefore, did not contest the tax demand. The GST authorities cannot be found fault with on such account because notices were issued in accordance with statutory prescription. At the same time, it cannot be lost sight of that a person carrying on business on a small scale, may not be conversant with the functioning of the GST portal. In this case, the petitioner was deprived of an opportunity to contest the tax demand by placing relevant documents on record. Solely for such reason, the order

impugned herein calls for interference, albeit subject to fulfilment of the condition of depositing 10% of the disputed tax demand.

5. Hence, the impugned order is quashed and the matter is remanded for re-consideration by the assessing officer subject to the petitioner remitting 10% of the disputed tax demand within a maximum period of ***two weeks*** from the date of receipt of a copy of this order. The petitioner is also permitted to submit 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. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, the assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and issue a fresh assessment order within a maximum period of ***two months*** thereafter.

6. W.P.No.4677 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.5105 and 5107 of 2024 are closed.

27.02.2024

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

To

Deputy State Tax Officer - 1,
Gummidipoondi Assessment Circle,
Chennai North Division,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai 600 003.

SENTHILKUMAR RAMAMOORTHY,J

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