IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **29.02.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.4775 of 2024 and
W.M.P.Nos.5200 & 5202 of 2024

Shamoon Moiz ... Petitioner

-vs-

The Deputy State Tax Officer,
Broadway Assessment Circle,
Integrated Commercial Taxes Building,
3rd floor, Elephant Gate Bridge Road,
Chennai-600 003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned proceedings of the respondent vide impugned order No.33AOKPM4923Q1ZE (Ref No.ZD3307231094430) dated 26.07.2023 and quash the same.

For Petitioner : Mr.Thyagarajan K.

For Respondent : Mr.C.Harsha Raj, Addl. Govt. Pleader (T)

ORDER

The petitioner assails an order dated 26.07.2023 on the ground that principles of natural justice were breached.

2. The petitioner states that he is a registered person under applicable GST laws. He further states that he was unaware of proceedings culminating in the impugned order since all notices were uploaded in the 'View Additional Notices and Orders' tab on the GST portal.

3. Learned counsel for the petitioner referred to the show cause notice and the impugned order and pointed out that even the GSTIN mentioned in the impugned assessment order is incorrect. He also points out that there is a disparity between the amount in respect of which the petitioner was called upon to show cause and the amount confirmed under the impugned assessment order. On instructions, learned counsel for the petitioner submits that the petitioner is agreeable to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts

notice on behalf of the respondent. He submits that sufficient opportunity was provided to the petitioner and that the same is evident from the impugned order. In particular, he points out that proceedings commenced with the issuance of a notice in Form GST ASMT-10, and that a separate personal hearing notice was issued to the petitioner on 13.02.2023.

5. The documents on record, including the impugned assessment order, clearly indicate that the petitioner was not heard before such order was issued. Undoubtedly, this situation transpired because the petitioner did not respond to the intimation and show cause notice. It is also noticeable that the amount mentioned in the show cause notice and the amount indicated in the assessment order does not tally and there appears to be disparity as regards the GSTIN mentioned in the said documents. In these circumstances, the impugned order is liable to be interfered with only for the limited purpose of providing an opportunity to the petitioner to place relevant documents on record and be heard, albeit on terms.

6. Therefore, the impugned order is set aside 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. The petitioner is also permitted to submit a reply to the show cause notice dated 27.01.2023 within the aforesaid period of two weeks. Subject to the 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 thereafter issue a fresh order within a 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.

29.02.2024

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

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To

The Deputy State Tax Officer,
Broadway Assessment Circle,
Integrated Commercial Taxes Building,
3rd floor, Elephant Gate Bridge Road,
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SENTHILKUMAR RAMAMOORTHY,J.

Kj

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