IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.4864 of 2024
and W.M.P.Nos.5309 & 5310 of 2024

Tvl.Lakshmi Traders,
(GSTIN: 33AVGPS5483C1Z1)
Rep. by its Proprietor K.Srinivasan
S/o.T.Kasirajan,
No.58, Thiruvengadam Street,
Pudupet, Chennai 600 002. ... Petitioner

-vs-

The Deputy State Tax Officer - II,
Chintadripet Assessment Circle,
Annex Building, 1st Floor,
Greams Road,
Chennai 600 006. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the respondent in GSTIN: 33AVGPS5483C1Z1 / 2018-19 dated 04.01.2024 and quash the same as illegal, arbitrary without jurisdiction and against the principles of natural justice.

For Petitioner : Mr.A.Chandrasekaran

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

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ORDER

An assessment order dated 04.01.2024 is challenged primarily on the ground of breach of principles of natural justice. The petitioner states that he is a registered person under applicable GST statutes. Although he filed returns in GSTR-1 in time, it is stated that the GSTR-3B returns were filed belatedly after paying requisite late fees. With regard to returns filed for the assessment year 2018-19, the petitioner received an intimation in Form GST DRC-01A on 21.09.2023. This was followed by show cause notice dated 05.10.2023. Such show cause notice was replied to on 18.12.2023 and such reply was uploaded on the GST portal on 20.12.2023. The impugned order was issued thereafter on 04.01.2024.

2. By referring to the impugned assessment order, learned counsel submits that the reply to the show cause notice was not taken into consideration at all. He also points out that the delay in filing GSTR-3B returns was regularized by paying the requisite late fees. He further submits that the rejection under Section 16(4) of applicable GST statutes is the subject of litigation before the Supreme Court and before the Division Bench of this Court. In these circumstances, he makes a request that the petitioner be provided an opportunity of hearing.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. With reference to the impugned order, he points out that the reply of the petitioner does not appeared to have been received by the respondent.

4. The petitioner's reply dated 18.12.2023, including proof of uploading thereof on 20.12.2023, is on record. On examining the

impugned order, such order does not refer to or deal with the petitioner's reply. The petitioner was also not provided a personal hearing.

5. Therefore, in order to provide an opportunity to the petitioner to place all relevant documents on record so as to justify the ITC claim, the impugned order calls for interference. Hence, the impugned order is quashed and the matter is remanded to the assessing officer for re-consideration. 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 ***two months*** from the date of receipt of a copy of this order.

6. W.P.No.4864 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.5309 and 5310 of 2024 are closed.

04.03.2024

rna

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

To

The Deputy State Tax Officer - II,
Chintadripet Assessment Circle,
Annex Building, 1st Floor,
Greams Road,
Chennai 600 006.

SENTHILKUMAR RAMAMOORTHY,J

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