IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 14.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.6562 of 2024
and W.M.P.Nos.7289 & 7290 of 2024

M/s.Sakthi Poly Products
Represented by its Partner
Mr.U.Padmanabhan
No.7-d, Nallampalayam Road,
Ramasamy Nagar,
Coimbatore 641 006. ... Petitioner

-vs-

1.The Commercial Tax Officer
Saravanampatti (West) Coimbatore - III
Coimbatore, Tamil Nadu.

2.The State Tax Officer (INT)
Saravanampatti (West) Circle,
Coimbatore. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of

India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records in order passed by the second respondent vide 33ADSFS6114Q1ZD/2019-20 dated 23.08.2023 along with the consequential DRC 07 Order under Section 73, Ref.No. ZD330823130337K dated 23.08.2023 issued by the first respondent, seeking to quash the same as arbitrary and further direct the first and second respondents to drop the proceedings and GSTIN: 33ADSFS6114Q1ZD/2019-20 dated 23.08.2023.

For Petitioner : Ms.P.Jayalakshmi
for Mr.J.Nandakumar

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

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ORDER

An assessment order dated 23.08.2023 is the subject of challenge in this writ petition. The petitioner asserts that he is a registered person under applicable GST enactments. It is further stated that the petitioner was unaware of the initiation of proceedings by issuing a notice in Form ASMT-10 followed by the intimation and show cause notice since such notices were uploaded on the "view additional notices and orders" tab of the GST portal. The petitioner further asserts that he became aware of these proceedings subsequently upon receipt of a phone call from the GST authorities. The present writ petition was filed in the said facts and circumstances.

2. Learned counsel for the petitioner submits that the demand under the impugned assessment order pertains to an alleged mismatch between the GSTR-3B and GSTR-2A returns as also between the GSTR-3B and GSTR-1 returns. He also points out that circulars were issued with regard to the manner in which such discrepancies should be dealt with, especially when the percentage of difference is below 20%. If provided an opportunity, it is submitted

that the petitioner would be able to satisfy the assessing officer with regard to such alleged discrepancy. On instructions, learned counsel also submits that the petitioner agrees to remit 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 drawing reference to the impugned assessment order, he points out that such order itself indicates the number of opportunities provided to the petitioner. In particular, he points out that a personal hearing was offered on about three occasions to the petitioner.

4. As a registered person, the petitioner is under an obligation to monitor the GST portal continually. Therefore, the explanation that the petitioner was completely unaware of proceedings is not convincing. At the same time, it is noticeable that the confirmed demand relates to discrepancy between the GSTR-3B and GSTR-2A

returns. The GST Department issued multiple circulars to deal with this issue, since it is a recurrent issue. Therefore, in my view, the petitioner should be provided an opportunity to contest the tax demand, albeit by putting the petitioner on terms.

5. For reasons set out above, the impugned assessment order 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. The petitioner is also permitted to submit a reply to the show cause notice within the aforementioned period. 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 assessment order within a period of ***two months***.

6. W.P.No.6562 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.7289 and 7290 of 2024 are closed.

14.03.2024

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

To

1.The Commercial Tax Officer
Saravanampatti (West) Coimbatore - III
Coimbatore, Tamil Nadu.

2.The State Tax Officer (INT)
Saravanampatti (West) Circle,
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SENTHILKUMAR RAMAMOORTHY,J

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