IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.6319 of 2024
and W.M.P.Nos.7022 & 7024 of 2024

Chettiar Stores
Represented by its Proprietrix: Mrs.Palani Devi,
No.156, Strahans Road,
Otteri, Chennai 600 012. ... Petitioner

-vs-

The Deputy State Tax Officer - I,
Purasawakkam Assessment Circle,
No.F/50, First Floor, First Avenue,
Anna Nagar East, Chennai 600 102. ... 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 order dated 22.08.2023 in Reference Number ZD330823121539D and quash the same as arbitrary, illegal.

For Petitioner : Mrs.V.Vijayalakshmi

For Respondent : Mr.V.Prasanth Kiran, GA (T)

****

ORDER

An assessment order dated 22.08.2023 is the subject of challenge in the writ petition. The petitioner was a registered person engaged in the business of retail and wholesale trading of wheat, rye flour, corn flour and other cereals. The petitioner's GST registration was cancelled with effect from 01.04.2020. Consequently, the petitioner asserts that she was not accessing the GST portal. Pursuant to a show cause notice dated 06.07.2023, the impugned order was issued on 22.08.2023.

2. Learned counsel for the petitioner contends that the petitioner did not have access to the GST portal and was, in any

event, not acquainted with the use of computer resources. She also submits that the impugned proceedings were not preceded by a notice in Form ASMT-10. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for re-consideration.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that the petitioner was provided multiple opportunities and that this is evident on examining the impugned order. He also submits that the petitioner received multiple notices after the cancellation of the GST registration and that it is not tenable to contend that the petitioner did not have access to the GST portal.

4. The admitted position is that the petitioner's GST registration was cancelled. As a consequence, at a minimum, the petitioner had little reason to monitor the GST portal. The assessment order

indicates clearly that the petitioner was not heard although it appears that personal hearings were offered to the petitioner. The petitioner also agreed to remit 10% of the disputed tax demand as a condition for remand.

5. In these circumstances, I am of the view that the petitioner should be provided an opportunity to contest the tax demand. Solely for this reason, 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 dated 06.07.2023 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.6319 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.7022 and 7024 of 2024 are closed.

13.03.2024

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

To

The Deputy State Tax Officer - I,
Purasawakkam Assessment Circle,
No.F/50, First Floor, First Avenue,
Anna Nagar East, Chennai 600 102.

SENTHILKUMAR RAMAMOORTHY,J

rna

W.P.No.6319 of 2024
and W.M.P.Nos.7022 & 7024 of 2024

13.03.2024