IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.6743, 6747 & 6754 of 2024
and W.M.P.Nos.7514, 7515, 7519, 7521, 7523 & 7525 of 2024

Tvl. Sri Ram Construction
Represented by its Partner, Mr.Rajaram Vediappan
Door No.1/7, Boomisamuthiram,
Kambainallur, Dharmapuri 635 202. ... Petitioner in all WP's

-vs-

The State Tax Officer (FAC)
Harur Assessment Circle,
T.V.Ka Nagar, Varnatheertham,
Near PWD Quarters, Harur - 636 903. ... Respondent in all WP's

PRAYER in W.P.No.6743 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of the impugned order u/s.74 dated 04.10.2023 having reference No. ZD331023012971Y passed by the respondent, and quash the same as it was passed in violation of principles of natural justice.

PRAYER in W.P.No.6747 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of the impugned order u/s.74 dated 04.10.2023 having reference No. ZD3310230131375 passed by the respondent, and quash the same as it was passed in violation of principles of natural justice.

PRAYER in W.P.No.6754 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of the impugned order u/s.74 dated 23.11.2023 having reference No. ZD331123147494M passed by the respondent, and quash the same as it was passed in violation of principles of natural justice.

For Petitioner in all WP's : Mr.S.Anandh

For Respondent in all WP's : Mr.V.Prashanth Kiran, GA (T)

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COMMON ORDER

By these three writ petitions, assessment orders pertaining to distinct assessment periods are assailed on the ground of breach of principles of natural justice. The petitioner is engaged in the business of providing construction services. Pursuant to a surprise inspection in May 2022, an intimation and show cause notice were issued to the petitioner in respect of alleged disparity between the GSTR-3B and 2A returns and between the GSTR-3B returns and the financial statement. By reply dated 25.07.2023 to such show cause notices, the petitioner refuted the statements in the show cause notices and requested for a personal hearing. The impugned assessment orders were issued thereafter.

2. Learned counsel for the petitioner invited my attention to the reply to the show cause notices and pointed out that the petitioner expressly requested for a personal hearing so as to enable the

petitioner to explain the alleged discrepancy. He further submits that such personal hearing was not provided.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. At the outset, he submits that the petitioner has an alternative statutory remedy. He further submits that the petitioner did not provide a proper reply to the show cause notices.

4. The relevant provision of the statute mandates that a personal hearing be provided either if the petitioner requests for the same or if an order adverse to the petitioner is proposed to be issued. In this case, the petitioner requested for a personal hearing and an order adverse to the petitioner was issued. Consequently, the statutory mandate was breached. For such reason, the impugned orders cannot be sustained.

5. Therefore, the impugned assessment orders are quashed and the matter is remanded for re-consideration. The petitioner is permitted to file a reply to the show cause notices within ***two weeks*** from the date of receipt of a copy of this order. Upon receipt thereof, the assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh assessment orders within ***two months*** from the date of receipt of the petitioner.

6. W.P.Nos.6743, 6747 and 6754 of 2024 are disposed of on the above terms. No costs. Consequently, W.M.P.Nos.7514, 7515, 7519, 7521, 7523 and 7525 of 2024 are closed.

18.03.2024

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

SENTHILKUMAR RAMAMOORTHY,J

rna

To

The State Tax Officer (FAC)
Harur Assessment Circle,
T.V.Ka Nagar, Varnatheertham,
Near PWD Quarters, Harur - 636 903.

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