# IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.03.2024**

CORAM:

**THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.No.6877 of 2024**
**and W.M.P.Nos.7680 & 7682 of 2024**

M/s.Vijaya Builders,
Represented by its Proprietor P.Velladurai,
13, Subbammal Illam,
Sri Rajeswari Nagar,
Saravanampatti,
Coimbatore-641 035. ...Petitioner

Vs.

1.The State Tax Officer,
Saravanampatti (West) Assessment Circle,
Coimbatore-641 018.

2.The Manager,
Canara Bank,
Saravanampatti Branch,
Coimbatore-641 107. ... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order of the 1st respondent in Ref. GSTIN: 33AGFPV6557N2ZM/2019-20 dated 29.09.2023 along with

Summary of the order in Form GST DRC-07 in Ref. No. ZD330923233086H dated 29.09.2023 and the consequential proceedings in his Ref. No. GSTIN: 33AGFPV6557N2ZM/2023 dated 24.11.2023, quash the same and consequently direct the 1st respondent to entertain the records, documents and reply to the notices from the petitioner firm and then pass order after affording a personal hearing to the petitioner firm and to lift the bank attachment notice issued to the 2nd respondent.

For Petitioner : Mr.S.Raveekumar
for Mr.M.Hariharan

For Respondent 1 : Mr.T.N.C.Kaushik,
Additional Government Pleader (T)

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**ORDER**

In this writ petition, assessment order dated 24.11.2023 is assailed primarily on the ground of breach of principles of natural justice.

2. The petitioner asserts that he became aware of the impugned proceedings only upon the petitioner's bank informing him of the attachment order. He also submits that notices and orders were only uploaded on the GST portal and not communicated to him by any other mode. The present writ petition was filed in the said facts and circumstances.

3. Learned counsel for the petitioner invited my attention to the reminder dated 27.04.2023 and pointed out that the petitioner was called upon to attend a personal hearing within about eight days and that such personal hearing was scheduled on the date on which the reply was to be given. He also submits that the petitioner was not heard before the assessment order was issued.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for 1st respondent. He submits that the impugned assessment order indicates that the petitioner was provided sufficient opportunity in as much as the impugned assessment order was preceded by an intimation and a show cause

notice. He also points out that personal hearings were offered to the petitioner on at least three dates.

5. The documents on record reveal that proceedings were initiated pursuant to a notice in Form ASMT-10 in March 2022. Thereafter, the intimation was issued in July 2022 and the assessment order was issued on 29.09.2023. As a registered person under applicable GST statutes, the explanation of the petitioner that he was unaware of the notices and the assessment order is not entirely convincing. However, it is noticeable that the petitioner was not granted sufficient time for the personal hearing by notices dated 05.04.2023, 19.04.2023 and 27.04.2023 and, admittedly, the petitioner was not heard.

6. On instructions, learned counsel for the petitioner submits that the petitioner is agreeable to remit 10% of the disputed tax demand year as a condition for remand.

7. In these circumstances, it is just and necessary to provide an opportunity to the petitioner to contest the tax demand by putting the petitioner on terms.

8. For reasons set out above, the impugned order is quashed and the matter is remanded to the assessing officer for reconsideration. The petitioner is permitted to submit a reply to the show cause notice within a maximum period of ***fifteen days*** from the date of receipt of a copy of this order along with the remittance of 10% of the disputed tax demand under each assessment order. Upon receipt thereof and upon being satisfied that 10% of the disputed tax demand under each assessment order 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*** from the date of receipt of the petitioner's reply. On account of the assessment order being quashed, the bank attachment is raised.

9. W.P.No.6877 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.7680 and 7682 of 2024 are closed.

**18.03.2024**

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

**To**

1.The State Tax Officer,
Saravanampatti (West) Assessment Circle,
Coimbatore-641 018.

2.The Manager,
Canara Bank,
Saravanampatti Branch,
Coimbatore-641 107.

**SENTHILKUMAR RAMAMOORTHY,J.**

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