# IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2024

CORAM:

**THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.No.7143 of 2024**
**and W.M.P.Nos.7998 & 7999 of 2024**

M/s.Amarjyothi Carrying Corporation,
Represented by its partner,
No.127, The Moon Stone Meadows,
1st main road, Anna nagar east,
Chennai-600 102. ...Petitioner

Vs.

Assistant Commissioner (ST),
Kilpauk Assessment Circle,
F50, 3rd floor, First Avenue,
Anna Nagar, Chenni-600 102. ... Respondent

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondent in the assessment proceedings in GSTIN/33AAAFA0972H1ZW/2019-2020 dated 28.07.2023 and to quash the impugned proceedings passed therein by considering the representation of the petitioner on 22.01.2023 and to pass orders under CGST Act as this Court may deem fit and proper in the circumstances of this case.

For Petitioner : Mr.C.Baktha Siromoni

For Respondent : Mrs.K.Vasanthamala, Govt. Adv. (T)

**ORDER**

An order dated 28.07.2023 is challenged primarily on the ground that the petitioner was not provided a reasonable opportunity.

2. The petitioner is a registered person under applicable GST enactments. The firm carries on the business of transport of goods. According to the petitioner, the services provided by the petitioner during the assessment period 2019-2020 were taxable on reverse charge basis by the recipient of services. While filing the GSTR 1 return for the month of October 2019, it is stated that the petitioner inadvertently failed to indicate that GST was leviable on the service on reverse charge basis. It is further stated that this mistake was corrected in the GSTR 3B return for the relevant month and in the annual GSTR 9 return.

3. In relation to the said GSTR 1 return, the petitioner states that proceedings were initiated and that the petitioner could not participate in such proceedings on account of being unaware of the same until such proceedings culminated in the impugned order.

4. Learned counsel for the petitioner referred to a communication dated 22.01.2024 (wrongly mentioned as 22.01.2023) wherein the petitioner explained the inadvertent error while filing the GSTR 1 return for the month of October 2019. He also points out that all relevant documents were annexed thereto. In these circumstances, learned counsel makes a request that the petitioner be provided another opportunity.

5. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She submits that the reply was issued long after the impugned order was issued. She further submits that the amount payable under the impugned order was appropriated from the petitioner's bank account pursuant to an attachment.

6. The position taken by the petitioner is that the entire tax liability has arisen on account of an inadvertent error committed while filing the GSTR 1 return for October 2019. It is further stated that such error was corrected by filing the GSTR 3B and GSTR 9 returns. The entire amount due and payable under the impugned order was appropriated from the petitioner's bank account. Therefore, at this juncture, revenue interest is

fully secured. In these circumstances, it is just and necessary to provide the petitioner an opportunity.

7. For reasons set out above, the impugned order is quashed and the matter is remanded to the respondent for reconsideration. The respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of two months from the date of receipt of a copy of this order. For the avoidance of doubt, it is made clear that amounts appropriated pursuant to the impugned order shall abide by the outcome of the remanded proceedings.

8. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

**20.03.2024**

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

**SENTHILKUMAR RAMAMOORTHY,J.**

Kj

To

Assistant Commissioner (ST),
Kilpauk Assessment Circle,
F50, 3rd floor, First Avenue,
Anna Nagar, Chenni-600 102.

W.P.No.7143 of 2024
and W.M.P.Nos.7998 & 7999 of 2024

20.03.2024