IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **22.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.6962 of 2024
and W.M.P.Nos.7762, 7764 & 7766 of 2024

Nagaraj Sangiah
Proprietor - M/s.Micrho Plast
No.165, SIDCO Industrial Estate
Thirumudivakkam,
Chennai 600 044. ... Petitioner

-vs-

1.The Superintendent of GST & Central Excise (Grp-IV),
Headquarters Preventive Unit,
Chennai Outer CGST Commissionerate,
Newry Towers, No.2054-I, II Avenue,
Anna Nagar, Chennai 600 040.

2.The Superintendent of GST & Central Excise,
Thirumudivakkam Range, Pallavaram Division
No.6, Sri Devi Temple Towers,
2nd Main Road, Sembakkam,
Chennai 600 073.

3.The Deputy Commissioner of Central Tax
Office of the Deputy Commissioner of CGST & Central Excise
No.6, Sri Devi Temple Towers,
2nd Main Road, Sembakkam,
Chennai 600 073.

4.The Branch Manager,
ICICI Bank Ltd.,
No.40, Pammal Main Road,
Pammal 600 075. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records on the file of Third Respondent in impugned Order-in-Original No.19/2022-GST dated 27.12.2022 passed for the Tax Periods July-2017 to December-2021, October-2018 to March-2019, July-2017 to January-2022 and 2020-2021 (September-2020) under Section 73(1), interest under Section 50 and penalty under Section 73(9), 122(3)(d) and 125 of the Goods and Services Tax Act, 2017, quash the same as ex-facie illegal, arbitrary and violation of principle of natural justice and consequently direct the Third Respondent to issue separate Show Cause Notice for each Tax Periods to enable the petitioner to file his objections separately for each Tax Periods.

For Petitioner : Mr.B.Sivaraman

For Respondents 1 to 3 : Mr.Rajinish Pathyil, Sr. SC

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ORDER

An Order-in-Original dated 27.12.2022 is challenged. The petitioner asserts that he was unaware of proceedings culminating in the order dated 27.12.2022 since the DRC 7 was uploaded on the portal only on 11.01.2024.

2. Learned counsel for the petitioner referred to the disputed tax demand and pointed out that the total tax demand is a sum of Rs.1,20,90,863/-. He also submits that a sum of more than Rs.8,00,000/- was remitted on 11.04.2024 under Form GST DRC - 03.

On instructions, he submits that the petitioner agrees to remit a further sum of Rs.7,00,000/- as a condition for remand.

3. On perusal of the impugned order, it is evident that the tax proposal pertained to the belated filing of returns, the difference between the petitioner's GSTR 1 and 3B returns and the difference between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. The order discloses that the petitioner did not participate the proceedings. In these facts and circumstances, it is just and necessary that the petitioner be provided an opportunity to contest the tax demand by putting the petitioner on terms.

4. For reasons set out above, impugned order dated 27.12.2022 is set aside on condition that the petitioner remits an aggregate sum of Rs.15,00,000/- towards the disputed tax demand within ***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 aforesaid period. Subject to receipt of the petitioner's reply and

on being satisfied that a sum of Rs.15,00,000/- was received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within ***three months*** from the date of receipt of a copy of this order.

5. W.P.No.6962 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.7762, 7764 and 7766 of 2024 are closed.

22.04.2024
(1/2)

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

To

1.The Superintendent of GST & Central Excise (Grp-IV),
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SENTHILKUMAR RAMAMOORTHY,J

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