IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.8181 of 2024
and W.M.P.Nos.9131 & 9132 of 2024

Tvl. Auro Hosting
Represented by its Proprietrix,
Ms.Udayakumar Radhika
68, Bay Watch Firm, 3rd Street,
Vettuvankeni, Chenni 600 115. ... Petitioner

-vs-

The State Tax Officer (ST)(FAC),
Sholinganallur Assessment Circle,
Room No.240, Second Floor,
Integrated Commercial Taxes and Registration Building,
South Tower, Nandanam, Chennai 600 035. ... Respondent

PRAYER: 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.73 dated 09.09.2023 having reference No. ZD330923051147H passed by the respondent, and quash the same as it was passed in violation of principles of natural justice.

For Petitioner : Mr.M.Rajesh

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

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ORDER

An order dated 09.09.2023 is challenged on the ground of breach of principles of natural justice. The petitioner is engaged in the business of website design and related services. As a registered person under applicable GST enactments, it is stated that the petitioner was filing returns regularly. The petitioner asserts lack of knowledge of proceedings originating in the intimation dated 15.07.2023 because notices were uploaded in the 'view additional notices and orders' tab of the GST portal. It is also stated that the petitioner became aware of the proceedings in January 2024 upon receiving a phone call from the office of the respondent.

2. Learned counsel for the petitioner submits that the petitioner was not provided a reasonable opportunity to contest the tax demand and that no personal hearing was offered to the petitioner.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that an intimation was issued in July 2023 and that the show cause notice was issued thereafter at the end of July 2023. He also submits that a personal hearing was offered to the petitioner on 25.08.2023, but the petitioner failed to avail of the opportunity.

4. On instructions, learned counsel for the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

5. Since the documents on record indicate clearly that the petitioner was not heard before the impugned order was issued, it is just and appropriate that an opportunity be provided to the petitioner albeit by putting the petitioner on terms.

6. For reasons set out above, the impugned order dated 09.09.2023 is quashed subject to condition that the petitioner remits 10% of 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. Upon receipt of the reply and upon being satisfied that 10% of the disputed tax demand 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 ***two months*** from the date of receipt of the petitioner's reply.

7. W.P.No.8181 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.9131 and 9132 of 2024 are closed.

28.03.2024

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

To

The State Tax Officer (ST)(FAC),
Sholinganallur Assessment Circle,
Room No.240, Second Floor,
Integrated Commercial Taxes and Registratio

SENTHILKUMAR RAMAMOORTHY,J

rna

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