IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.7999 of 2024
and W.M.P.Nos.8973 & 8971 of 2024

Showkathhussain Mohamedismaile
Represented by its Proprietor:
Mr.Showkathhussain Mohamedismaile,
No.90, General Patters Road,
Anna Salai, Chennai 600 005. ... Petitioner

-vs-

The Deputy State Tax Officer,
(Formerly known as Deputy Commercial Tax Officer)
Thiruvallikeni Assessment Circle,
No.421, Integrated Commercial Taxes Building, First Floor,
Anna Salai, Nandanam, Chennai 600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the Respondent order in Reference Number ZD331223193370Q DRC-07 dated 25.12.2023 and quash the same as arbitrary, illegal.

For Petitioner : Ms.V.Vijayalakshmi

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

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ORDER

An assessment order dated 25.12.2023 is assailed on the ground of breach of principles of natural justice. The petitioner was a registered person under applicable GST enactments until such registration was cancelled with effect from 30.03.2019. The impugned order is assailed on the ground that the notices that preceded such order and the impugned order were uploaded on the GST portal, but not served on the petitioner through any other mode.

2. Learned counsel for the petitioner submits that the petitioner was not monitoring the GST portal since the petitioner's registration was cancelled with effect from 30.03.2019. It is also stated that the

petitioner is not carrying on business at present. Learned counsel also points out that reminder-1 dated 20.12.2023 specifies that a reply should be submitted by the petitioner on or before 26.12.2023, whereas the impugned order was issued on 25.12.2023.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that the show cause notice was also served on the petitioner by e-mail. In addition, he points out that the petitioner appears to be accessing the GST portal and, therefore, is aware of reminder-1 dated 20.12.2023.

4. The petitioner has placed on record the document indicating the cancellation of registration with effect from 30.03.2019. Since it appears that the registration was cancelled, it cannot be expected that the petitioner should monitor the GST portal in the same manner as a registered person. However, learned Government Advocate submits, on instructions, that the show cause notice was also sent to the

petitioner by e-mail. The petitioner has also placed on record the reminder dated 20.12.2023, which indicates that the petitioner accessed the portal.

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

6. In the above facts and circumstances, it is just and appropriate that the petitioner be provided an opportunity to contest the tax demand, albeit by putting the petitioner on terms.

7. Therefore, the impugned order is quashed subject to the petitioner remitting 10% of the disputed tax demand as agreed to within ***fifteen days*** 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 aforementioned period. Subject to the receipt of such 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.

8. W.P.No.7999 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.8971 and 8973 of 2024 are closed.

27.03.2024

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

To

The Deputy State Tax Officer,
(Formerly known as Deputy Commercial Tax Officer)
Thiruvallikeni Assessment Circle,
No.421, Integrated Commercial Taxes Building, First Floor,
Anna Salai, Nandanam, Chennai 600 035.

SENTHILKUMAR RAMAMOORTHY,J

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