IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.03.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.8006 of 2024
&
W.M.P.Nos.8976 & 8977 of 2024

Muthukrishnan Radhakrishnan
Proprietor of M/s.Radhakrishnan
Catering Contractors,
No.77, Mariammankoil Street,
Nadu Veethi, Periyakalapet
Puducherry-605 014. ... Petitioner

-vs-

The Assistant Commissioner of GST
& GST Central Excise, Puducherry III Division,
Office of the Assistant Commissioner of
GST & Central Excise, No.14, Municipal
Street, Azeez Nagar, Reddiarpalayam,
Puducherry-605 010. ... 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 Respondent herein in its impugned order in ORDER-IN-ORIGINAL No.24/2022 (ST) dated 24.08.2022 and quash the same.

For Petitioner : Mrs.R.Hemalatha
for Mr.S.Rajasekar

For Respondent : Mr.K.Mohanamurali,
Senior Standing Counsel

ORDER

An assessment order in respect of the assessment period running from October, 2016 to March, 2017 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand.

2. The petitioner is engaged in the business of providing outdoor catering services. In respect of the aforesaid period, proceedings were initiated against the petitioner on the basis of Form 26AS. The petitioner asserts that he was unaware of the initiation of such proceedings since he had met with an accident and was hospitalized for a long period. Meanwhile, it is stated that the period of limitation for filing an appeal elapsed.

3. Learned counsel for the petitioner submits that the show cause notice was issued on 22.04.2022 by invoking the extended period of limitation under Section 73 of the Finance Act, 1994. She makes a request that the petitioner be provided an opportunity to contest the tax demand. On instructions, she also submits that the petitioner is ready and willing to remit a sum of Rs.1.5 lakhs towards the disputed tax demand.

4. Mr.Mohanamurali, learned senior standing counsel, accepts notice for the respondents. He points out that the petitioner was provided sufficient opportunities to contest the tax demand and that the petitioner opted not to reply to the show cause notice or participate in the proceedings.

5. The impugned order is dated 24.08.2022 and the show cause notice preceding such order was issued on 22.04.2022. Therefore, the explanation of the petitioner that he could not respond to the show cause notice or contest the proceeding on account of meeting with an accident does not

fully explain the filing of the writ petition in 2024. Nonetheless, the record reveals that the petitioner was not heard before the tax demand was confirmed. Such tax demand relates to the assessment period October, 2016 to March, 2017. By taking into account the facts and circumstances cumulatively, it is just and appropriate that an opportunity be provided to the petitioner albeit by putting the petitioner on terms.

6. Solely with a view to provide an opportunity to the petitioner, the impugned order is set aside subject to the condition that the petitioner remits a sum of Rs.1,50,000/- towards the disputed tax demand within three 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 petitioner's reply and upon being satisfied that a sum of Rs.1,50,000/- was received towards the tax demand, 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 petitioner's reply.

7. W.P.No.8006 of 2024 is disposed of on the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

25.03.2024

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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To

The Assistant Commissioner of GST
& GST Central Excise, Puducherry III Division,
Office of the Assistant Commissioner of
GST & Central Excise, No.14, Municipal
Street, Azeez Nagar, Reddiarpalayam,
Puducherry-605 010.

SENTHILKUMAR RAMAMOORTHY J.

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