IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **02.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.8496 of 2024
and W.M.P.Nos.9444, 9446 & 10118 of 2024

Newlab F Apparels LLP
Represented by its Managing Partner:
A.Shameel Ahamed
New No.1/6, 1/A, Old No.31, Agathiyur Street,
Susheela Nagar, K.M.Nagar,
Tondiarpet High Road,
Chennai 600 118. ... Petitioner

-vs-

1.The Assistant Commissioner (ST)(FAC),
Kodungaiyur Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai 600 003.

2.The Branch Manager,
Standard Chartered Bank,
Grindlays Centre,
19, Rajaji Salai,
Chennai 600 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for records in Reference Number ZD331023144552X/2019-20 dated 25.10.2023 on the file of the first respondent and quash the same as contrary to law, consequently direct the respondents to defreeze the bank account namely C.A.No.42705657384 and all related accounts to the PAN: AAQFN9952L of the petitioner - registered Taxable Person.

For Petitioner : Ms.V.Vijayalakshmi

For Respondent 1 : Mr.V.Prashanth Kiran, GA (T)

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ORDER

An assessment order dated 25.10.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand. The petitioner is engaged in the business of retail and wholesale trading of leather apparels. Upon scrutiny of the petitioner's returns, a notice in Form ASMT 10 was issued to the petitioner on 16.06.2023. Thereafter, an intimation dated 10.05.2023 and a show cause notice dated 07.08.2023 followed. The petitioner asserts that he was unaware of these proceedings because a consultant was engaged for GST compliances and such consultant did not inform the petitioner about these proceedings. The present writ petition was filed after a bank attachment notice was issued on 13.03.2024.

2. Learned counsel for the petitioner submits that the limited liability partnership was established in 2019 and that the petitioner was not acquainted with procedures relating to GST compliances. Learned counsel also submits that there is disparity between amounts specified in the ASMT 10 notice when compared with amounts specified in the show cause notice and the impugned order. On instructions, learned counsel submits that the petitioner is willing to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the first respondent. He submits that the petitioner was provided multiple opportunities to contest the tax demand and that this is evident from the impugned order.

4. The documents on record include the notice in Form ASMT 10, the intimation and the show cause notice. As a registered person under applicable GST enactments, the explanation of the petitioner that he was unaware of proceedings is not convincing. However, on perusal of the impugned order, it appears that the tax demand pertains to discrepancy between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. It is just and appropriate that the petitioner be provided an opportunity to explain the discrepancy after putting the petitioner on terms.

5. Therefore, the impugned order dated 25.10.2023 is set aside subject to the 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. Within the same period, the petitioner is permitted to submit a reply to the show cause notice dated 07.08.2023. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, the first 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. As a consequence of the impugned assessment order being set aside, the bank attachment is raised.

6. W.P.No.8496 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.9444, 9446 and 10118 of 2024 are closed.

02.04.2024

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

To

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2.The Branch Manager,
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SENTHILKUMAR RAMAMOORTHY,J

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