IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.8659 of 2024
&
WMP Nos.9641 & 9642 of 2024

Kandhasamy Jothimani,
No.6, Karunanithi Nagar,
Sedar Street, Kurunjipadi,
Cuddalore-607 302. ... Petitioner

vs

The Commercial Tax Officer,
Cuddalore (Taluk),
Cuddalore. ... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, calling for the records on the files of the impugned Order of the Respondent in GSTIN:33AJTPJ3455E2Z5 dated 16.09.2023 bearing a Ref.No.ZD3309231052830 for the tax period April, 2019 to March, 2020 and quash the same.

For Petitioner : Mr.A.Rajasekar

For Respondent : Mr.V.Prasanth Kiran
Government Advocate (Taxes)

ORDER

An order dated 16.09.2023 is challenged primarily on the ground of breach of principles of natural justice.

2. The petitioner asserts that the show cause notice was uploaded on the "View Additional Notices and Orders" tab on the GST portal. On account of not being able to access the same, it is submitted that the petitioner could not respond to the show cause notice.

3. Learned counsel for the petitioner refers to the impugned order and points out that there is reference thereto to a reply filed by the petitioner although the petitioner did not reply to the notice. Learned counsel contends that this indicates complete non-application of mind.

4. Mr.Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the respondent. On instructions, he submits that the show cause notice was also emailed to the petitioner.

5. On perusal of the impugned order, it appears that the tax demand pertains to discrepancy between the GSTR 3B and GSTR 1 returns. The tax demand was confirmed without hearing the petitioner. The petitioner cannot, however, be absolved of responsibility inasmuch as the petitioner should have monitored the GST portal continually.

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

7. Solely with a view to provide the petitioner an opportunity of hearing, the impugned order is quashed and the matter is

remanded for reconsideration 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. The petitioner is also permitted to submit a reply to the show cause notice within the aforesaid period. Upon 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. It is made clear that all contentions are left open to the petitioner.

8. W.P.No.8659 of 2024 is disposed of on the above terms and connected miscellaneous petitions are closed. No costs.

28.03.2024

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

The Commercial Tax Officer,
Cuddalore (Taluk),
Cuddalore.

SENTHILKUMAR RAMAMOORTHY J.

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