IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.9227 of 2024
and W.M.P.No.10266 of 2024

M/s.Raw Enterprises,
Rep. by its Proprietor
Hithayathullah Rawuther,
Shop No.16, Kalyan Trade Centre,
No.16, Wallers Road,
Mount Road / Anna Salai,
Chennai 600 002. ... Petitioner

-vs-

1.The State Tax Officer,
O/o. The Assistant Commissioner (ST),
Chepauk Assessment Circle,
Room No.203/248, II floor,
Integrated Buildings for Offices of Commercial Taxes &
Registration Department,
Government Farm Village,
Nandanam, Chennai 600 035.

2.The Assistant Commissioner (ST),
Chepauk Assessment Circle,
Room No.203/248, II floor,

Integrated Buildings for Offices of Commercial Taxes &
Registration Department,
Government Farm Village,
Nandanam, Chennai 600 035.

3.The Deputy Commissioner (ST)(FAC),
South - I,
Integrated Buildings for Offices of Commercial Taxes &
Registration Department,
Government Farm Village,
Nandanam, Chennai 600 035. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned orders No. ZD330623027023Z dated 08.06.2023 and No. ZD330623035540 dated 08.06.2023 passed by the first respondent and quash the same consequently direct the first respondent herein to redo the assessment afresh after providing an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.S.Thirumavalavan

For Respondents : Mr.C.Harsha Raj, AGP (T)

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ORDER

An order dated 08.06.2023 is challenged primarily on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner is a civil works contractor and a registered person under applicable GST enactments. The petitioner asserts that he had entrusted GST compliances to an auditor and was not informed about proceedings culminating in the order impugned herein.

3. Learned counsel for the petitioner points out that the intimation and show cause notice preceding the assessment order were uploaded on the "view additional notices and orders" tab on the GST portal and not communicated to the petitioner through any other mode. On account of not being aware of proceedings, he

submits that the petitioner could not participate and contest the tax demand on merits. On instructions, he submits that the petitioner has willing to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. With reference to the impugned order, he submits that sufficient opportunities were provided to the petitioner, but the petitioner failed to avail of the same.

5. On examining the documents on record, it is evident that the petitioner did not participate in proceedings leading to the impugned order. In the affidavit, it is asserted that all the notices and orders were uploaded on the "view additional notices and orders" tab of the GST portal. In these circumstances, the interest of justice warrants that an opportunity be provided to the petitioner albeit by putting the petitioner on terms.

6. Therefore order dated 08.06.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within ***fifteen days*** from the date of receipt of a copy of this order. Within the aforesaid period, the petitioner is directed to submit a reply to the show cause notice. Upon receipt of the petitioner's 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.9227 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.No.10266 of 2024 is closed.

05.04.2024

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

To

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<u>SENTHILKUMAR RAMAMOORTHY,J</u>

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