IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.04.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.9090 & 9093 of 2024
and W.M.P.Nos.10111, 10112, 10115 & 10116 of 2024

In both WPs

K.C.Mathaiyan ... Petitioner

-vs-

Assistant Commissioner (ST)
Ayyothiyapattinam Assessment Circle,
Salem. ... Respondent

PRAYER in W.P.No.9090 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the entire records relating to the order in Reference No. ZD330423092383I dated 20.04.2023 passed by the Respondent and quash the same.

PRAYER in W.P.No.9093 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the entire records relating to the order in Reference No. ZD3311231262515 dated 21.11.2023 passed by the Respondent and quash the same.

In both WPs.

For Petitioner : Mr.T.Ramesh

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

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COMMON ORDER

In both these writ petitions, the respective impugned orders are challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserted that he is a works contractor executing civil work for government departments and local authorities. The petitioner received an intimation and show cause notice in relation to alleged discrepancies between the GSTR 1 and 3B returns, on the one hand, and the GSTR 2A return on the other. According to the petitioner, he appeared in person before the respondent and also made payments towards the tax liability from time to time. Since the petitioner was not heard before the impugned orders were issued, the petitioner seeks another opportunity to contest the tax demand on merits.

3. Learned counsel for the petitioner submits that the entire tax liability of Rs.28,73,618/- towards assessment period 2019-2020 was discharged by remitting an aggregate amount of Rs.28,88,000/-. As regards the assessment period 2021-22, he submits that a sum of Rs.11,76,790/- was remitted as against the total tax liability of Rs.22,84,564/-. Therefore, he submits that more than 50% was

remitted as regards the assessment period 2021-22 and 100% as regards the assessment period 2019-2020.

4. The impugned orders were issued without hearing the petitioner. Without doubt, the petitioner cannot be absolved of responsibility in such regard inasmuch as both an intimation and show cause notice were issued to the petitioner. At the same time, it should be noticed that the petitioner has discharged the entire tax liability with regard to the financial year 2019-20 and about 50% of the tax liability as regards the financial year 2021-22. To that extent, revenue interest is protected. In these circumstances, it is just and appropriate to provide another opportunity to the petitioner to contest the tax demand, interest and penalty on merits.

5. Solely for that reason, the impugned orders call for interference. Therefore, impugned orders dated 20.04.2023 and 21.11.2023, respectively, are set aside and these matters are remanded to the respondent for reconsideration. The petitioner is permitted to

submit a reply to the show cause notice within 15 days from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh orders within ***two months*** from the date of receipt of the petitioner's reply.

6. W.P.Nos.9090 & 9093 of 2024 are disposed of on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

04.04.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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SENTHILKUMAR RAMAMOORTHY,J

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To

Assistant Commissioner (ST)
Ayyothiyapattinam Assessment Circle,
Salem.

W.P.Nos.9090 & 9093 of 2024
and W.M.P.Nos.10111, 10112, 10115 & 10116 of 2024

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