IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **02.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition Nos.8818 & 8821 of 2024
and W.M.P.Nos.9822, 9823, 9826 & 9827 of 2024

In both WPs.

Zulaikha Motors Private Limited,
Represented by its Authorised Signatory,
Ms.Vijayalakshmi Subburaj,
Director CSO, GR Complex,
808/15 (old No.407/15),
Anna salai, Nandanam, Chennai-600 035. ... Petitioner

-vs-

The Assistant Commissioner of GST,
South-II Nandanam,
Chennai South,
Chennai – 600 035. ... Respondent

Prayer in W.P.No.8818 of 2024 : 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 respondent in order issued in Reference No.ZD331223292594C dated 31.12.2023 and to quash the same.

Prayer in W.P.No.8821 of 2024 : 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 respondent in order issued in Reference No.ZD3312233142596J dated 19.12.2023 and to quash the same.

In both W.P's:

For Petitioner : Mr.J.Shankarraman

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader (T)

ORDER

By these two writ petitions, orders pertaining to the assessment period 2017-2018 are challenged on the ground of breach of principles of natural justice.

2. The petitioner asserts that there was a change in management of the petitioner company and that the new management took over on 01.01.2024. As a consequence of such change in management, it is stated that the current management was unaware of proceedings culminating in the orders impugned herein.

3. Learned counsel for the petitioner invited my attention to the orders impugned herein and pointed out that the tax demand was confirmed merely on account of the failure of the petitioner to reply to the show cause notice. He also points out that no reasons are recorded in support of the confirmation of the tax demand.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. By referring to the orders impugned herein, he points out that the intimation in respect of the assessment order dated 19.12.2023 was issued on 09.09.2023. By further submitting that the show cause notice was issued on 28.09.2023, he points out that the tax demand was confirmed because the petitioner failed to respond to either the intimation or the show cause notice.

5. On examining the orders impugned herein, it is clear that the petitioner failed to respond either to the intimation or to the show cause notice. A change in management does not justify the failure to respond to the show cause notice. On examining the impugned order, it is evident that

discrepancies between the GSTR 3B, GSTR 1 and GSTR 9 returns was the basis for confirming the tax demand. The impugned order contains no reasons in support of the tax demand except the failure of the petitioner to reply to the show cause notice. In these circumstances, albeit by putting the petitioner on terms, it is just and appropriate to provide the petitioner an opportunity to contest the tax demand on merits.

6. On instructions, learned counsel for the petitioner submits that the petitioner is willing to remit 10% of the disputed tax demand under order dated 19.12.2023 as a condition for remand.

7. Consequently, the orders impugned herein are quashed subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to under order dated 19.12.2023. Such remittance shall be made within a maximum period of two weeks from the date of receipt of a copy of this order. Within the aforesaid period, the petitioner is also permitted to submit a reply to the show cause notice. Upon receipt thereof 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 fresh orders within a period of two months from the date of receipt of the petitioner's reply.

8. These writ petitions are disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

02.04.2024

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

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To

The Assistant Commissioner of GST,
South-II Nandanam,
Chennai South,
Chennai – 600 035.

SENTHILKUMAR RAMAMOORTHY,J

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