IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.9475 & 9479 of 2024
and W.M.P.Nos.10471 & 10474 of 2024

Tvl. MSS Projects,
GSTIN / ID: 33BCBPS2714M1ZK
Represented by its Proprietor, Manickam Srinivasan,
1, RKV Nagar, 1st Street, Thirunagar Colony,
Erode - 638 003. ... Petitioner in both WP's

-vs-

The Assistant Commissioner (ST),
Park Road Assessment Circle,
Erode - 638 001. ... Respondent in both WP's

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records pertaining to original of the letter Ref. No. 33BCBPS2714M1ZK/2023-24/B2 dated 02.03.2024, issued by the respondent and quash the same.

For Petitioner in both WP's	:	Mr.G.Derrick Sam
For Respondent in both WP's	:	Mrs.K.Vasanthamala, GA (T)

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COMMON ORDER

Orders dated 02.03.2024 are 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 orders

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 is willing to remit 10% of the disputed tax demand under each order as a condition for remand.

4. Mrs.K.Vasanthamala, learned Government Advocate, 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 orders. 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, orders dated 02.03.2024 are set aside on condition that the petitioner remits 10% of the disputed tax demand under each order within ***fifteen days*** from the date of receipt of a copy of this order. Within the aforesaid period, the petitioner is permitted 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 under each order was received, 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.

7. W.P.Nos.9475 & 9479 of 2024 are disposed of on the above terms. No costs. Consequently, W.M.P.Nos.10471 and 10474 of 2024 are closed.

10.04.2024

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

To

The Assistant Commissioner (ST),
Park Road Assessment Circle,
Erode - 638 001.

SENTHILKUMAR RAMAMOORTHY,J

rna

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