IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.No.9341 of 2024**
**and**
**W.M.P.Nos.10357, 10358 & 10360 of 2024**

Sri. Kalai Constructions
Rep. By its partner Sri.K.Ashokan,
N.2/140-H, Pudhupathi,
Pappiredipatti,
Dharmapuri-636 905. ... Petitioner

-vs-

The Deputy State Tax Officer-I,
Harur Assessment Circle
Harur. ... Respondent

**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 of the respondent in GSTIN: 33AAUFK0599C1Z5/2019-2020 and quash the proceeding dated 28/08/2023 passed therein and further direct the respondent to grant sufficient opportunity before passing final order.

For Petitioner : Mr.B.Raveendran

For Respondents : Mr.C.Harsha Raj
Addl. Government Pleader (Taxes)

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**ORDER**

An order dated 28.08.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. Pursuant to a notice in Form GST ASMT 10, a show cause notice was issued to the petitioner on 28.07.2023. The petitioner did not reply thereto. Eventually, the impugned order dated 28.08.2023 was issued.

3. Learned counsel for the petitioner submits that the tax demand pertains to alleged mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. If provided an opportunity, he submits that the petitioner would explain the

discrepancy. On instructions, he submits that the petitioner is 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. By referring to the impugned order, he points out that the show cause notice was followed by about three notices for personal hearing. Therefore, he submits that principles of natural justice were complied with.

5. On perusal of the impugned order, as contended by learned counsel for the petitioner, the tax demand pertains to mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. The impugned order records that the tax liability was confirmed because the petitioner did not file a reply to the show cause notice or participate in proceedings. In these circumstances, subject to putting the petitioner on terms, it is just and appropriate to provide another opportunity to the petitioner.

6. Therefore, the impugned order dated 28.08.2023 is set aside subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of two weeks from the date of receipt of a copy of this order, and the matter is remanded for reconsideration. The petitioner is also permitted to submit a detailed 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.

7. W.P.No.9341 of 2024 is disposed of on the above terms and connected miscellaneous petitions are closed. No costs.

**10.04.2024**

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

To

The Deputy State Tax Officer-I,
Harur Assessment Circle
Harur.

**SENTHILKUMAR RAMAMOORTHY,J**

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