IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.9485 of 2024
and W.M.P.Nos.10483 & 10485 of 2024

M/s.Selvaraj Constructions
Represented by its Partner, Mr.A.Selvaraj
383, Poonamallee Arakkonam Road,
Ulundai Village, Tiruvallur,
Tamil Nadu 602 105. ... Petitioner

-vs-

The State Tax Officer
Tiruttani Assessment Circle
Integrated CT Building
Arakkonam. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records leading to the issuance of assessment order bearing reference 33ABZFS6655H1ZF/2019-20 dated 02.06.2023 by the respondent herein and quash the same.

For Petitioner : Ms.Sri Harinin SP

For Respondent : Mr.V.Prashanth Kiran, GA (T)

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ORDER

An assessment order dated 02.06.2023 is assailed on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits.

2. Proceedings were initiated against the petitioner by issuing show cause notice dated 17.03.2022. Such proceedings culminated in impugned order dated 02.06.2023. The petitioner asserts that he was unaware of proceedings since the notices and the impugned order were uploaded in the "view additional notices and orders" tab on the GST portal.

3. On instructions, learned counsel for the petitioner submits

that the petitioner is willing to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that the impugned order was preceded by a notice in Form GST ASMT-10, an intimation and a show cause notice. Therefore, he submits that sufficient opportunities were provided by the petitioner.

5. On perusal of the impugned order, it is evident that ITC was reversed for violation of sub-section(4) of Section 16 of applicable GST enactments. It is also evident that the tax proposal was confirmed for the reason that the petitioner did not reply to the notice. In these circumstances, albeit by putting the petitioner on terms, it is just and appropriate that the petitioner be provided an opportunity to contest the tax demand on merits.

6. Therefore, impugned order dated 02.06.2023 is set aside subject to the condition that the petitioner remits 10% of the disputed

tax demand within a period of ***two weeks*** 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 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.9485 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.10483 and 10485 of 2024 are closed.

10.04.2024

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

To

The State Tax Officer

Tiruttani Assessment Circle
Integrated CT Building
Arakkonam.

SENTHILKUMAR RAMAMOORTHY,J

rna

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