IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.9504 of 2024
and W.M.P.Nos.10500, 10503 & 10504 of 2024

Tvl. Tara Tarini Communications
Represented by its Proprietor,
Mr.Sandip Kumar Panda
352/3, Kalaingner Street,
Kavanoor Sirukalathur,
Kancheepuram 600 069. ... Petitioner

-vs-

The Deputy State Tax Officer - 1,
Kundrathur Assessment Circle,
Integrated GST Building,
No.4/109, Chennai - Bangalore Highways,
Varadharajapuram, Nazarathpet,
Poonamallee - 600 123. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of the impugned order u/s.73 dated 23.11.2023 having reference No. ZD331123142409Q passed by the respondent, and quash the same as it was passed in violation of principles of natural justice.

For Petitioner : Mr.S.Anandh

For Respondent : Mrs.K.Vasanthamala, GA (T)

****

ORDER

An order dated 23.11.2023 is challenged in this writ petition on the ground that the petitioner was not provided a reasonable opportunity.

2. The petitioner asserts that he had availed of Input Tax Credit in respect of procurements made from Aircel Limited. It is further asserted that such Input Tax Credit was also reflected in the auto populated GSTR 2A. The petitioner contends that an inadvertent error was made while filling up the GSTR 3B returns, whereby the available ITC was mentioned in row 4(A)(3) pertaining to inward supply liable to reverse charge. According to the petitioner, the

entire tax liability arose on that account.

3. On instructions, learned counsel for the petitioner submits that the petitioner is ready and willing to remit 10% of the disputed tax demand as a condition for remand.

4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. By referring to the impugned order, she submits that such order was preceded by a notice in Form ASMT-10 and a show cause notice. She also points out that personal hearing was offered to the petitioner.

5. On perusal of the impugned order, it is evident that the tax liability pertains to alleged discrepancy in availment of ITC. Such conclusion has been reached on the basis of the petitioner's GSTR 3B return. In view of the explanation provided by the petitioner in the affidavit, it is just and appropriate that the petitioner be provided an opportunity to contest the tax demand by putting the petitioner on

terms.

6. For reasons set out above, impugned order dated 23.11.2023 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. Since the assessment order has been set aside, the bank attachment and recovery notice are also set aside.

7. W.P.No.9504 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.10500, 10503 and 10504 of 2024 are closed.

10.04.2024

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

To

The Deputy State Tax Officer - 1,
Kundrathur Assessment Circle,
Integrated GST Building,
No.4/109, Chennai - Bangalore Highways,
Varadharajapuram, Nazarathpet,
Poonamallee - 600 123.

<u>SENTHILKUMAR RAMAMOORTHY,J</u>

rna

W.P.No.9504 of 2024
and W.M.P.Nos.10500, 10503 & 10504 of 2024

10.04.2024