IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 10.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.9537 of 2024
and W.M.P.Nos.10544 & 10545 of 2024

Mr.S.Sivakumar ... Petitioner

-vs-

The State Tax Officer (Inspection-I),
Office of Joint Commissioner (ST)(INTL),
Vellore - 632 001. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records culminating into Impugned Order dated 25.09.2023 bearing GSTIN: 33AZIPS7583D1Z1/2022-23 and quash the same.

For Petitioner : Mr.Praveen S.Kumaar
for Mr.J.Adithya Reddy

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

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ORDER

An order dated 25.09.2023 is challenged primarily on the ground of breach of principles of natural justice. The petitioner is engaged in the business of civil contract work. An intimation and show cause notice were issued to the petitioner in April and May, respectively, in the year 2023. Since these notices were uploaded on the "view additional notices and orders" tab of the GST portal, the petitioner asserts that he was unaware of proceedings.

2. Learned counsel for the petitioner submits that the tax demand pertains to the differences noticed between the petitioner's taxable supply as per the GSTR 3B returns and the return of income filed by the petitioner under the Income Tax Act, 1961. If provided an opportunity, learned counsel submits that the petitioner would be in a position to explain the reasons for the difference. On

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

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. On instructions, he submits that the show cause notice was also communicated to the petitioner by e-mail. He also points out that about three hearing notices were issued to the petitioner before the impugned order was issued.

4. On examining the impugned order, it is evident that the order pertains to reconciliation of turnover as per the Income Tax return and GSTR 3B return. It is also clear that the tax proposal was confirmed because the petitioner did not reply to the show cause notice. In these circumstances, albeit by putting the petitioner on terms, it is just and necessary that the petitioner be provided an opportunity to contest the tax demand on merits.

5. For reasons set out above, impugned order dated 25.09.2023 is set aside on condition that the petitioner remits 10% of the disputed

tax demand within ***two weeks*** from the date of receipt of a copy of this order. Within the aforesaid period, the petitioner is directed 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.

6. W.P.No.9537 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.10544 and 10545 of 2024 are closed.

10.04.2024

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

To

The State Tax Officer (Inspection-I),
Office of Joint Commissioner (ST)(INTL),
Vellore - 632 001.

SENTHILKUMAR RAMAMOORTHY,J

rna

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