IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.10144 of 2024
and W.M.P.Nos.11192 & 11193 of 2024

Tvl. Vishal Agencies,
Represented by its Proprietor,
Mr.Deepak Kumar (M/A 40),
No.112/2, Ellaya Street,
Tondiarpet, Chennai 600 008. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Tondiarpet (C) Assessment Circle,
Integrated Building for Commercial Taxes Department,
Chennai 600 003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the file of the respondent and to quash the impugned order dated 19.10.2023 bearing GSTIN: 33AFCPD5078E1ZV/2017-18 passed by the respondent as arbitrary.

For Petitioner : Mr.J.Ashish

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

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ORDER

An assessment order dated 19.10.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. Upon scrutiny of the petitioner's return, a notice in Form GST ASMT 10 was issued to the petitioner on 24.05.2023. This was followed by the show cause notice dated 18.08.2023 and reminder dated 17.10.2023. Eventually, the impugned order was issued on 19.10.2023.

2. By inviting my attention to the show cause notice, learned counsel points out that the tax proposal pertained to the discrepancy between the petitioner's GSTR 1 statement and the GSTR 3B returns. Upon noticing the discrepancy, learned counsel submits that the

petitioner reconciled the same in its GSTR 9C return. In this connection, he refers to the GSTR 9C return at page 35 of the typed set and points out that the unreconciled amount was paid in the month of April 2018. He also refers to the GSTR 1 statement for April 2018-19 in this connection. Since the amount representing the discrepancy was made good, learned counsel submits that the petitioner be provided an opportunity to contest the tax demand.

3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice on behalf of the respondent. By inviting my attention to the impugned order, she points out that the show cause notice was issued in August 2023 and that the petitioner had sufficient time to respond thereto before the impugned order was issued. She also points out that personal hearings were offered on at least two occasions.

4. On perusal of the impugned order, it is evident that the confirmed tax proposal pertains to the difference between the

petitioner's GSTR 1 statement and GSTR 3B returns. The petitioner has placed on record the GSTR 1 statement for the month of April in assessment period 2018-19 and the GSTR 9C reconciled statement. *Prima facie* it appears that the petitioner has paid the unreconciled amount in April 2018. However, no definitive conclusions can be drawn in these proceedings and the matter would have to be examined by the respondent. Nonetheless, in these circumstances, it is just and appropriate that the petitioner be provided an opportunity, albeit by putting the petitioner on terms.

5. On instructions, learned counsel for the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

6. In the above facts and circumstances, impugned order dated 19.10.2023 is set aside and the matter is remanded for reconsideration subject to the 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. The petitioner is also permitted to

submit a reply to the show cause notice within the aforesaid period by enclosing all relevant documents. Upon receipt thereof 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 assessment order within a period of ***two months*** from the date of receipt of the petitioner's reply.

7. W.P.No.10144 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.11192 and 11193 of 2024 are closed.

18.04.2024

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

SENTHILKUMAR RAMAMOORTHY,J

rna

To

The Assistant Commissioner (ST),
Tondiarpet (C) Assessment Circle,
Integrated Building for Commercial Taxes Department,
Chennai 600 003.

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