IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.No.10212 of 2024**
**and W.M.P.Nos.11270 & 11271 of 2024**

Tvl. Ravisandran
No.88/200, P.V.Koil Street,
Royapuram,
Chennai 600 013. ... Petitioner

-vs-

The Assistant Commissioner (ST)
Royapuram Assessment Circle,
Integrated Commercial Taxes Buildings,
No.32, Elephant Gate Bridge Road,
Chennai 600 003. ... 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 relating to the Order in GSTN: 33AAEPR5784J1Z9/2017-18 dated

26.04.2023 (Reference No. ZD330423129057P) passed by the respondent and quash the same as violative of principles of natural justice as no proper opportunities was not given, contrary to law and unsustainable.

For Petitioner : Mr.M.A.Mudimannan

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

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**ORDER**

An assessment order dated 26.04.2023 is the subject of challenge in this writ petition. The petitioner asserts that he was unable to respond to intimation dated 08.12.2022 or show cause notice dated 28.12.2022 on account of a technical problem in accessing the portal. In those circumstances, the impugned order dated 26.04.2023 was issued.

2. Learned counsel for the petitioner referred to the impugned order and pointed out that the tax proposal was confirmed and penalty was imposed at 100% of the tax amount. Since the petitioner did not have an opportunity to contest the tax proposal on merits, learned counsel makes a request that the petitioner be provided an opportunity in this regard. On instructions, he submits that the petitioner is willing to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. By referring to the impugned order, he points out that the petitioner availed of Input Tax Credit in respect of goods falling within the scope of sub-section (5) of Section 17 of applicable GST enactments. He also points out that the impugned order was preceded by a show cause notice, an intimation

and a notice in Form GST ASMT 10.

4. On perusal of the impugned order, it is evident that the confirmed tax proposal pertains to the purchase of a motor vehicle. It also appears that 100% penalty was imposed. Since the petitioner did not participate in proceedings and the tax demand was confirmed in such circumstances, it is just and appropriate that the petitioner be provided an opportunity albeit by putting the petitioner on terms.

5. For reasons set out above, the impugned order is set aside 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. 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 ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.No.10212 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.11270 and 11271 of 2024 are closed.

**18.04.2024**

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

**To**

The Assistant Commissioner (ST)
Royapuram Assessment Circle,
Integrated Commercial Taxes Buildings,
No.32, Elephant Gate Bridge Road,
Chennai 600 003.

**SENTHILKUMAR RAMAMOORTHY,J**

rna

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