IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **23.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.No.10651 of 2024**
**and W.M.P.Nos.11723, 11725 & 11726 of 2024**

Sre Panneerselvam Tex
Rep. by its Karta Proprietor Mr.S.Panneerselvam
1/14, Sankagiri Main Road,
Thiruchengod Taluk,
Namakkal District,
Tamilnadu 638 008. ... Petitioner

-vs-

1.The Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai 600 005.

2.The Assistant Commissioner (ST),
Pallipalayam Assessment Circle,
Tiruchengodu Taluk,
Namakkal District. ... Respondents

**PRAYER**: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the record relating to the order of the second respondent in GSTN No. 33AAHHS2225N1Z0/2022-23 order dated 13.11.2023 as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.B.Ramesshkumar

For Respondents : Mr.C.Harsha Raj, AGP (T)

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**ORDER**

An order dated 13.11.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner submits that he was unaware of proceedings culminating in the order impugned herein because such order was not communicated through any mode other than uploading on the GST portal.

2. Learned counsel for the petitioner submits that the tax proposal pertains to the difference between the petitioner's GSTR 3B returns and the GSTR 1 statement. If provided an opportunity, he submits that the petitioner would be in a position to reconcile the difference. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondents. By referring to the impugned order, he points out that such order was preceded by a show cause notice dated 18.08.2023 and that a personal hearing was offered to the petitioner.

4. On perusal of the impugned order, as contended by learned counsel for the petitioner, such order pertains to the difference

between the petitioner's GSTR 3B returns and the GSTR 1 statement. It is also evident that the tax proposal was confirmed in view of the petitioner's failure to reply to the show cause notice. The show cause notice discloses that a personal hearing was offered to the petitioner on 25.08.2023. Therefore, the petitioner cannot be absolved of responsibility for non participation. At the same time, it should be recognized that the tax proposal was confirmed only because the petitioner failed to reply. In these circumstances, albeit by putting the petitioner on terms, it is just and necessary to provide the petitioner an opportunity to contest the tax demand on merits.

5. Solely for the reasons set out above, impugned order dated 13.11.2023 is set aside, subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to within a maximum period of ***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. In view of the fact that the assessment order has been set aside, the bank attachment is raised.

6. W.P.No.10651 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.11723, 11725 and 11726 of 2024 are closed.

**23.04.2024**

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

**SENTHILKUMAR RAMAMOORTHY,J**

rna

**To**

1.The Commissioner of Commercial Taxes,
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Chennai 600 005.

2.The Assistant Commissioner (ST),
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