IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **23.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.10645 of 2024
and W.M.P.Nos.11713 & 11714 of 2024

M/s.Revathi Readymades,
Represented by its Partner,
Mr.T.Rajkumar,
No.36 and 38, Madhavaram High Road,
Perambur, Chennai 600 011. ... Petitioner

-vs-

The Deputy State Tax Officer - 1,
Villivakkam Assessment Circle,
Chennai 600 099. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the impugned proceedings of the respondent in GSTIN: 33AAHFR0532P1Z3 / 2018-19 dated 28.04.2023 and the impugned summary of the order in Form GST DRC-07 dated 28.04.2023 issued in Reference No.

ZD330423143765G and quash the impugned orders as passed contrary to the provisions of the CGST Act, 2017 and TNGST Act, 2017 and contrary to the principles of natural justice.

For Petitioner : Mr.P.Rajkumar

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

****

ORDER

An order in original dated 28.04.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that the show cause notice and impugned order were uploaded on the GST portal, but not communicated to the petitioner through any other mode. Consequently, it is stated that the petitioner was unaware of these

proceedings until he was informed by the respondents about alleged arrears relating to assessment year 2018-19.

3. Learned counsel for the petitioner submits that the confirmed tax proposal pertains to mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. If provided an opportunity, he submits that the petitioner would be in a position to explain the reasons for the discrepancy. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand on condition for remand.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondents. He points out that the impugned order is dated 28.04.2023 and the petitioner has approached the Court belatedly. He also points out that the order was preceded by a show cause notice dated 30.12.2022 and that a personal hearing was offered to the petitioner.

5. As contended by learned counsel for the petitioner, the impugned order pertains to the mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. Such order was issued without hearing the petitioner and the tax proposal was confirmed because the petitioner did not respond to the show cause notice. While the petitioner cannot be absolved of responsibility in such regard, it is just and necessary that the petitioner be provided an opportunity after putting the petitioner on terms.

6. For reasons set out above, impugned order dated 28.04.2023 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.

7. W.P.No.10645 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.11713 and 11714 of 2024 are closed.

23.04.2024

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

To

The Deputy State Tax Officer - 1,
Villivakkam Assessment Circle,
Chennai 600 099.

SENTHILKUMAR RAMAMOORTHY,J

rna

W.P.No.10645 of 2024
and W.M.P.Nos.11713 & 11714 of 2024

23.04.2024