IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10618 of 2024 and
W.M.P.Nos.11681 & 11683 of 2024

Indian Rocks,
Represented by its Proprietor,
Mr.K.Thirunavukkarasu,
No.11/A, NA, Ramanathan Street,
Kilpauk, Chennai-600 010. ...Petitioner

Vs.

The State Tax Officer,
Formerly known as Commercial Tax Officer,
Kilpauk Assessment Circle,
No.F50, 3rd floor,
First Avenue, Anna Nagar East,
Chennai-600 102. .. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondent order in Reference Number ZD3310232131860/2017-2018 dated 31.10.2023 and quash the same as arbitrary, illegal.

For Petitioner : Mrs.V.Vijayalakshmi

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

ORDER

An order dated 31.10.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner was engaged in the business of trading of granite, sand stones and allied products. The petitioner states that the GST registration was cancelled with effect from 31.05.2021. As a consequence, the petitioner asserts that he was unaware of proceedings culminating in the order impugned herein.

3. Learned counsel for the petitioner submits that no personal hearing was offered to the petitioner and that sub-section (4) of Section 75 of applicable GST enactments was contravened.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. By referring to the impugned order, he points out that sufficient opportunities were provided to the petitioner by way of a show cause notice and a personal hearing.

5. On perusal of show cause notice dated 30.09.2023, it is evident

that a personal hearing was offered to the petitioner on 07.10.2023. The order of cancellation of the petitioner's GST registration is on record. Such order is dated 31.05.2021. In those circumstances, the explanation of the petitioner that he was not monitoring the GST portal on an ongoing basis cannot be completely disregarded. In the overall facts and circumstances, albeit by putting the petitioner on terms, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits.

6. 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.

7. For reasons set out above, the impugned order dated 31.10.2023 is set aside and the matter is remanded for reconsideration subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of three 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 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 a period of three months from the date of receipt of the petitioner's reply.

8. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

23.04.2024

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

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To

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SENTHILKUMAR RAMAMOORTHY,J.

Kj

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