IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **26.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.11168 of 2024
&
WMP Nos.12235 & 12236 of 2024

Tvl. Mataji Store
Represented by its Proprietor
23/859-D, Mataji Store,
R.G.Street, Coimbatore,
Tamil Nadu 641 001. ... Petitioner

-vs-

Assistant Commissioner (ST)
RG Street Circle,
Coimbatore ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari calling for the record the impugned order of the Respondent dated 30.09.2023 bearing GSTIN:33BHAPA9691M1Z3/2019-20 and quash the same.

For Petitioner : Ms.S.P.Sri Harini
for Mr.Adithya Reddy

For Respondent : Mr.V.Prasanth Kiran
Government Advocate (Taxes)

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ORDER

An order dated 30.09.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. By asserting that the petitioner was unaware of the show cause notice and impugned order because the said communications were only uploaded on the 'View Additional Notices and Order' tab of the GST portal and not communicated to the petitioner through any other mode, the present writ petition was filed.

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

4. Mr.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that principles of natural justice were complied with by issuing intimation dated 02.09.2022, show cause notice dated 05.01.2023 and by providing personal hearing opportunities under notices dated 13.02.2023 and 12.09.2023.

5. On perusal of the impugned order, it is evident that the tax proposal pertains to a discrepancy between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. It is also clear that the tax proposal was confirmed because the petitioner did not reply to the show cause notice. In the affidavit in support of the writ petition, it is asserted that the petitioner has obtained the requisite certificates to fulfil obligations under Circular No.183. In these circumstances, albeit by putting the petitioner on terms, it is just and appropriate that an opportunity be provided to the petitioner to contest the tax demand on merits.

6. Solely for reasons set out above, the impugned order dated 13.09.2023 is set aside on 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. Within the said period, the petitioner is also permitted to submit a reply to the show cause notice. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, the first respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within ***three months*** from the date of receipt of the petitioner's reply.

7. W.P.No.11168 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.12235 and 12236 of 2024 are closed.

26.04.2024

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

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To

Assistant Commissioner (ST)
RG Street Circle,
Coimbatore

SENTHILKUMAR RAMAMOORTHY,J

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