IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10733 of 2024 and
W.M.P.Nos.11813 & 11815 of 2024

HR Enterprises,
Represented by its Proprietor,
R.Hemand Kumar,
31/32, RR Nagar,
New Vellanoor Road,
Avadi, Tiruvallur,
Tami Nadu-600 002. ...Petitioner

Vs.

State Tax Officer,
Avadi Assessment Circle,
No.32, Elephant Gate Bridge Road,
Integrated Commercial Taxes Building,
Chennai North Division,
Chennai-600 003. .. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the impugned order of the respondent passed in GSTIN:33AJJPH8844D1Z9/2020-2021 dated 20.07.2023 and quash the same.

For Petitioner : Mr.N.Murali

For Respondent : Mrs.K.Vasanthamala, Govt. Adv. (T)

O R D E R

An order dated 20.07.2023 is challenged in this writ petition.

2. The petitioner is a manufacturer of hollow blocks. In relation to the purchase of a tipper lorry by the petitioner, proceedings were initiated. The petitioner asserts that he was ignorant of such proceedings because the notice and order were uploaded on the GST portal in the "View Additional Notices and Orders" tab. By asserting that the petitioner became aware of such proceedings only upon being informed of the attachment of his bank account, the present writ petition has been filed.

3. Learned counsel for the petitioner contends that the petitioner has a good case on merits since commercial vehicles do not fall within the scope of sub-section (5) of Section 17 of applicable GST enactments. By referring to the communication from the tax authorities to the City Union Bank Limited, he points out that the entire tax liability along with interest thereon was realised.

4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She points out that the impugned order was

preceded by a notice in Form ASMT 10 dated 13.04.2023, a show cause notice dated 18.05.2023 and a reminder dated 12.06.2023. She also points out that the petitioner has approached the Court belatedly against the order dated 20.07.2023.

5. The petitioner has asserted in the affidavit that the tipper lorry was purchased in furtherance of business. The entire tax liability along with interest thereon was appropriated from the bank account of the petitioner. Consequently, revenue interest has been secured at this juncture. In these facts and circumstances, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits.

6. For reasons set out above, the impugned order dated 20.07.2023 is set aside and the matter is remanded for reconsideration by the respondent. The petitioner is permitted to submit a reply to the show cause notice within a period of 15 days from the date of receipt of a copy of this order. Upon receipt thereof, the 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. It is needless to say that amounts appropriated pursuant to earlier order dated 20.07.2023 shall abide by the outcome of the remanded proceedings.

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

24.04.2024

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

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To

State Tax Officer,
Avadi Assessment Circle,
No.32, Elephant Gate Bridge Road,
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SENTHILKUMAR RAMAMOORTHY,J.

Kj

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