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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.04.2024**

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10783 of 2024
and W.M.P.Nos.11885 & 11888 of 2024

M/s.Gauresh Industries,
Represented by its Proprietor
Jeetendra Mohan Valecha,
Plot No.16-4, Behind SIDCO Phase I
Hosur 635 126, Krishnagiri District. ...Petitioner

-vs-

The Deputy State Tax Officer - I,
Hosur (South) - I,
Hosur 635 109. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, by calling for the connected records pertaining to the impugned proceedings of the Respondent herein made in GSTIN: 33AAKPV9375M1ZQ / 2019-2020 dated 17.10.2023 and quash the same as illegal and consequently directing the respondent herein pass an order afresh after verification of records available with the petitioner herein.

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For Petitioner : Mr.Manoharan Sundaram

For Respondent : Mrs.K.Vasanthamala, GA (T)

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ORDER

An order dated 17.10.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. Upon scrutiny of the petitioner's return, a notice in Form GST ASMT - 10 was issued on 08.03.2022. This was followed by an intimation dated 30.04.2022 and a show cause notice dated 11.07.2022. The petitioner asserts that he was unaware of these proceedings.

2. Learned counsel for the petitioner submits that the matter pertains to the discrepancy between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. He further submits that the petitioner has all relevant documents to explain the reasons for the mismatch. Therefore, he seeks an opportunity. On instructions, he submits that the petitioner is willing to remit 10%

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of the disputed tax demand as a condition for remand.

3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. With reference to the impugned order, she points out that sufficient opportunities were provided to the petitioner by way of a notice in Form GST ASMT 10, an intimation and a show cause notice.

4. On perusal of the impugned order, it is clear that the tax proposal pertains to a difference between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. The tax proposal was confirmed because the petitioner did not reply to the show cause notice. The petitioner asserts that all necessary documents are available to establish that the availment of Input Tax Credit was in order. In these circumstances, it is just and appropriate that the petitioner be provided an opportunity after putting the petitioner on terms.

5. For reasons set out above, impugned order dated 17.10.2023 is set aside subject to the petitioner remitting 10% of the

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disputed tax demand within ***two weeks*** from the date of receipt of a copy of this order. Within the aforesaid period, the petitioner is permitted to submit a reply to the show cause notice. Upon receipt of such 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 ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.No.10783 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.11885 and 11888 of 2024 are closed.

25.04.2024

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

To

The Deputy State Tax Officer - I,
Hosur (South) - I,

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Hosur 635 109.

SENTHILKUMAR RAMAMOORTHY,J.

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