IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **29.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.11198 of 2024
and W.M.P.Nos.12279 & 12280 of 2024

Tvl. KGK Construction,
Represented by Karthik,
No.61-4, Kangayam Road,
Kodumudi, Erode-6388151. ... Petitioner

-vs-

The Deputy State Tax Officer,
Kodumudi Assessment Circle,
Karur-639001. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records in order passed by the respondent order vide GSTIN 33AKGPK2255H5ZA/2017-2018 dated 11.10.2023 and seeking to quash of the same as arbitrary along with the consequential DRC-07 order under Section 73, Reference No.ZD331023058509J dated 11.10.2023 and further direct the respondent to drop the proceedings.

For Petitioner : Mr.M.N.Bharathi
For Respondent : Mrs.K.Vasanthamala, Government Advocate (T)

ORDER

By asserting that the petitioner was unaware of proceedings culminating in the impugned order since the notices and orders were uploaded on the "View Additional Notices and Orders" tab on the GST portal and not communicated to the petitioner through any other mode, the present writ petition was filed impugning order dated 11.10.2023.

2. Learned counsel for the petitioner submits that the tax proposal pertains to the discrepancy between the petitioner's GSTR 3B return and the auto-populated GSTR 2A. On instructions, learned counsel submits that the petitioner is agreeable to remit 10% of the disputed tax demand as a condition for remand. He further submits that the petitioner has a good case, including with regard to limitation.

3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She points out that the intimation was issued in

June 2023, the show cause notice in July 2023 and a personal hearing notice was issued on 03.10.2023. Consequently, she contends that no case is made out for interference.

4. On perusal of the impugned order, it is evident that the tax proposal pertains to the discrepancy between the petitioner's GSTR 3B return and the auto-populated GSTR 2A and the consequential inference that Input Tax Credit (ITC) was wrongly availed of. It is also clear that such tax proposal was confirmed because the petitioner did not file a reply to the show cause notice. Upon considering the averments in the affidavit and contentions of learned counsel, it is just and necessary that an opportunity be provided to the petitioner to contest the tax demand by putting the petitioner on terms.

5. For reasons aforesaid, the impugned order dated 11.10.2023 is set aside and the matter is remanded for reconsideration on condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of two weeks from the date of receipt of a copy of this order. The

petitioner is 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 three months from the date of receipt of the petitioner's reply.

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

29.04.2024

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

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To

The Deputy State Tax Officer,
Kodumudi Assessment Circle,
Karur-639001.

SENTHILKUMAR RAMAMOORTHY,J

kj

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