IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 23.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.10674 of 2024
and W.M.P.Nos.11764 & 11766 of 2024

Tvl. Gayatri Granites
Represented by its Partner, Mr.Ranveer Singh,
110/1A 1C, Kondappanayanapalli,
Bargur, Krishnagiri, Tamilnadu 635 108. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Krishnagiri - II Circle,
Hosur Division, Dharmapuri,
Salem, Tamil Nadu. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 16.08.2023 in Form GST DRC - 07 bearing GSTIN No. 33AAPFG7788N1ZE/2018-19 issued by the respondent and its consequential Demand Order dated

17.08.2023 having Reference No. ZD330823092147A and quash the same as arbitrary.

For Petitioner : Mr.Sanskar Samdaria

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

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ORDER

An order dated 16.08.2023 and the consequential demand notice dated 17.08.2023 are challenged in this writ petition on the ground of breach of principles of natural justice.

2. The petitioner is engaged in the business of supplying granite, sandstone and related products. Upon examining the returns of the petitioner, notice in Form ASMT 10 was issued on 17.02.2023. This was followed by intimation dated 25.03.2023 and show cause notice dated 20.06.2023. The impugned order was issued

thereafter on 16.08.2023. The petitioner asserts that he was unaware of proceedings since the notices and orders were uploaded in the "View additional notices and order" tab of the GST portal, but not communicated to the petitioner through any other mode.

3. Learned counsel for the petitioner submits that the confirmed tax proposal pertains to the mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. If provided an opportunity to contest the tax demand on merits, he submits that the petitioner would be in a position to explain the discrepancy. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She points out that the petitioner was provided sufficient opportunities in the form of a notice in Form

ASMT 10, an intimation and a show cause notice. She also points out that a personal hearing was offered on 30.06.2023.

5. As a registered person under applicable GST enactments, the petitioner is under an obligation to monitor the GST portal on an ongoing basis. Therefore, the explanation provided by the petitioner is not entirely convincing. At the same time, it should be noticed that the tax demand was confirmed only because the petitioner failed to submit a reply to the show cause notice and attend the personal hearing. In the overall facts and circumstances, albeit by putting the petitioner on terms, the interest of justice warrants that an opportunity be provided to the petitioner to contest the tax demand.

6. For reasons set out above, impugned order dated 16.08.2023 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 maximum period of ***two 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 thereof 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 assessment order within a period of ***three months*** from the date of receipt of the petitioner's reply.

7. W.P.No.10674 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.11764 and 11766 of 2024 are closed.

23.04.2024

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

To

The Assistant Commissioner (ST), Krishnagiri - II Circle,
Hosur Division, Dharmapuri, Salem, Tamil Nadu.

SENTHILKUMAR RAMAMOORTHY,J

rna

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