IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.10972 of 2024
and W.M.P.Nos.12056 & 12057 of 2024

Tvl. Mayur Granites,
Reply by its Proprietor,
Mr.Abhishek Tak,
S.No.420/A, 420/1B, NA,
Jitanapalli Village,
Jagadvipalayam, Krishnagiri,
Tamil Nadu-635 203. ... Petitioner

-vs-

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

2.Axis Bank,
Neelandri Road Branch,
Zeus Alliance, Karnataka-560 100. ... Respondents

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 27.07.2023 in Form GST DRC-07 bearing GSTN No.33A EXPT6179E1ZS/2017-18 issued by the 1st Respondent along with Summary of the Order dated 31.07.2023 both having Reference No. ZD330723137324M and quash the same, and consequently direct the 1st Respondent to lift the attachment made on the bank accounts maintained by the petitioner with the 2nd respondent dated 18.03.2024.

For Petitioner : Mr.A.Abdul Rahman

For Respondent 1 : Mrs.K.Vasanthamala, GA (T)

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ORDER

In this writ petition, an assessment order is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that he was unaware of proceedings culminating in the order impugned herein because such order was uploaded on the "View Additional Notices and Orders" tab on the GST portal and not communicated to the petitioner through any other mode.

3. By pointing out that the tax demand pertains to discrepancy between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A returns, learned counsel submits that the petitioner would be in a position to explain the discrepancy satisfactorily if provided an opportunity. On instructions, learned counsel for the petitioner submits that, as a condition for remand, the petitioner is willing to remit 10% of the disputed tax demand.

4. Mrs.K.Vasanthamala, learned Government Advocate, accepts

notice for the first respondent. With reference to the impugned order, she points out that such order was preceded by a show cause notice and that, therefore, the petitioner had sufficient opportunity to contest the tax demand.

5. On perusal of the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not file objections or participate in the personal hearing. The petitioner has asserted that he would be in a position to explain the discrepancy between the GSTR 3B and 2A returns if provided an opportunity. In these circumstances, it is just and appropriate that an opportunity be provided to the petitioner by putting the petitioner on terms.

6. For reasons set out above, the order impugned herein is set aside and the matter is remanded to the first respondent for reconsideration subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of ***fifteen***

days from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply to the show cause notices 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 first respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of ***two months*** from the date of receipt of the petitioner's reply. Since the impugned assessment order is being set aside, the bank attachment pursuant thereto is raised.

7. W.P.No.10972 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.12056 and 12057 of 2024 are closed.

25.04.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No
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SENTHILKUMAR RAMAMOORTHY,J

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To

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

2. Axis Bank,
   Neelandri Road Branch,
   Zeus Alliance, Karnataka-560 100.

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