# IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2024

CORAM:

**THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.Nos.11038 & 11042 of 2024 and**
**W.M.P.Nos.12119, 12121, 12126 & 12127 of 2024**

Tvl. Jones Enterprises,
Represented by its Proprietor,
Leo Brightwin, 37, Ground Floor,
1st palla street, Kamarajar Avenue,
Vysarpadi, Chennai-600 039. .. Petitioner in both WPs.

Vs.

The Assistant Commissioner (ST),
Washermenpet Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road, Chennai-600 003.
.. Respondent in W.P.No.11038 of 2024

The Assistant Commissioner (ST),
Washermenpet Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.206, No.1275/3, Bridge Road, Vepery,
Chennai-600 003. .. Respondent in W.P.No.11042 of 2024

**Prayer in W.P.No.11038 of 2024:** Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the respondent in GSTIN: 33AZGPL7151C1ZO

/ 2019-2020 dated 13.02.2023 and quash the same and consequently direct the respondent to give an opportunity of personal hearing.

**Prayer in W.P.No.11042 of 2024:** Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the respondent in GSTIN: 33AZGPL7151C1ZO / 2021-2022 dated 22.06.2023 and quash the same and consequently direct the respondent to give an opportunity of personal hearing.

**In both WPs.**

For Petitioner : Mr.P.R.Kumar

For Respondent : Mr.V.Prashanth Kiran, Govt. Adv. (T)

**COMMON ORDER**

In W.P.No.11042 of 2024, an order in original dated 22.06.2023 is challenged and in W.P.No.11038 of 2024, an order dated 13.02.2023 imposing penalty for non filing of the annual return is challenged.

2. The petitioner asserts that he was unaware of proceedings culminating in the orders impugned herein because the notices and orders were uploaded on the GST portal, but not communicated to the petitioner through any other mode. The present writ petitions were filed in the said facts and circumstances.

3. Learned counsel for the petitioner submits that the tax proposal pertains to the mismatch between the petitioner's GSTR 3B return and the auto-populated GSTR 2B return. He further submits that the petitioner would be in a position to explain the discrepancy, which arose because the supplier reported the sales belatedly. He points out that the petitioner has already remitted 10% of the disputed tax demand on 11.04.2024.

4. As regards order dated 13.02.2023, he submits that the requirement of filing an annual return in Form GSTR 9 arises only if the turnover in the relevant financial year exceeds Rs.2 crores. By pointing out that the turnover of the petitioner did not exceed the threshold during the financial year 2019-2020, he seeks an opportunity to contest the matter on merits.

5. The petitioner has placed on record evidence of remittance of sum of Rs.54,640/- towards the disputed tax demand relating to order dated 22.06.2023. On perusal of such order, it is clear that the tax proposal was confirmed because the petitioner did not reply to the show cause notice or participate in the personal hearing. In the circumstances outlined above, the interest of justice warrants that the petitioner be

provided an opportunity to contest the matter on merits.

6. For reasons set out above, impugned orders dated 13.02.2023 and 22.06.2023 are set aside subject to verification of receipt of 10% of the disputed tax demand under order dated 22.06.2023. The petitioner is permitted to submit replies to the show cause notices within two weeks 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 fresh orders within three months from the date of receipt of the petitioner's replies.

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

**26.04.2024**

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),
Washermenpet Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai-600 003.

2. The Assistant Commissioner (ST),
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