IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.10761 of 2024
and W.M.P.Nos.11850 & 11851 of 2024

Sri Sengodagounder Rangasamy,
25A, MGR Nagar,
Kattur Rasipuram,
Namakkal 637 408. ... Petitioner

-vs-

State Tax Officer,
Rasipuram Circle,
Namakkal. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records of the respondent herein in GSTIN: 33ACHPR5174P1ZY/2019-20 and quash the impugned proceeding dated 31.05.2023 passed therein.

For Petitioner : Mr.B.Raveendran

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

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ORDER

An order in original dated 31.05.2023 is assailed on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits. The petitioner is a works contractor. Upon receipt of an intimation dated 26.12.2022, the petitioner replied on 20.01.2023 requesting for two months' time to respond. Such request was not responded to. Instead, after issuing show cause notice dated 13.03.2023, the impugned order was issued on 31.05.2023.

2. Learned counsel for the petitioner referred to the impugned order and pointed out that the petitioner's reply was referred to

therein. However, he submits that the tax proposal was confirmed without granting time to the petitioner.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that the petitioner replied to the intimation and, therefore, cannot contend that he was not accessing the portal. He further submits that the impugned order was issued more than two months after issuing the show cause notice and that the petitioner had sufficient time even as per the petitioner's reply requesting for two months' time.

4. On perusal of the impugned order, it is evident that the petitioner's reply to the intimation was noticed therein. However, the tax proposal was confirmed by referring to non production of documents such as invoices, contract details, bank statement and Form 26AS. The petitioner asserted that all relevant documents are available to explain the discrepancy between the GSTR 7 filed by the

recipient of services and the petitioner's returns. In these circumstances, it is appropriate that the petitioner be provided an opportunity after putting the petitioner on terms.

5. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 15% of the disputed tax demand as a condition for remand.

6. Therefore, impugned order dated 31.05.2023 is set aside and the matter is remanded for reconsideration subject to the petitioner remitting 15% of the 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 by enclosing all relevant documents. Upon receipt thereof, 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.

7. W.P.No.10761 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.11850 and 11851 of 2024 are closed.

25.04.2024

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

To

State Tax Officer,
Rasipuram Circle,
Namakkal.

SENTHILKUMAR RAMAMOORTHY,J

rna

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