IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.10764 of 2024
and W.M.P.Nos.11857 & 11858 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/2021-22 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 23.12.2022, the petitioner replied on 13.02.2023 by pointing out that the total receipts for work executed for the Rasipuram Municipality in the financial year 2021-22 was only Rs.4,33,000/-. It was further stated that the GSTR 7 filed by the Rasipuram Municipality may include payment relating to other years.

2. Learned counsel for the petitioner referred to a certificate provided by the Rasipuram Municipality through the Commissioner

and pointed out that the said certificate clearly specifies that the total amount received in 2021-22 was only Rs.4,33,000/-. Without prejudice, he submits that the petitioner agrees to remit 15% of the disputed tax demand as a condition for remand.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that the petitioner did not annex the certificate of the Rasipuram Municipality to the reply to the intimation. He also points out that such reply was to the intimation and that no reply was submitted upon receipt of the show cause notice.

4. On perusal of the statement from the Rasipuram Municipality, as contended by learned counsel for the petitioner, as regards financial year 2021-22, such statement specifies that the petitioner received of a sum of Rs.4,33,000/-. The said statement sets out amounts received by the petitioner from the Rasipuram Municipality for several financial years commencing from financial year 2017-18 up to financial year 2021-22. In these circumstances,

albeit by putting the petitioner on terms, it is just and necessary to provide the petitioner an opportunity to contest the tax demand on merits.

5. For reasons set out above, 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.

6. W.P.No.10764 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.11857 and 11858 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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