IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **29.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.11185 of 2024
and W.M.P.Nos.12261 & 12263 of 2024

Vaji Motor
Represented by its Proprietrix,
D.Vajjirammal,
No.13, Co-operative Colony,
3rd cross, Krishnagiri-635001. ... Petitioner

-vs-

Assistant Commissioner (ST),
Krishnagiri-I Assessment Circle,
559-5, Kallukkurukkl Village,
Saamanthamalal post Collector,
Office Backside, Krishnagiri-635 115. .. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the impugned order of the respondent passed in GSTIN:33ACWPV3516C1ZG/2017-2018 dated 27.07.2023 and quash the same and issue any other writ.

For Petitioner : Mr.N.Murali

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

ORDER

An order in original dated 27.07.2023 is challenged in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax proposal on merits.

2. The petitioner is a dealer in agricultural implements and spare parts relating thereto. According to the petitioner, he was unaware of proceedings culminating in the impugned order because the notice and order were uploaded in the "View Additional Notices and Orders" tab on the GST portal. After filing a rectification petition dated 08.08.2023, the present writ petition was filed.

3. Learned counsel for the petitioner submits that an error was made while reporting outward supplies and Input Tax Credit (ITC) in the month

of November 2017. By further submitting that such error was inadvertent and committed during the first year of implementation of GST laws, learned counsel submits that such error was rectified in the annual return in Form GSTR 9. As regards ITC, it is submitted that the same was reversed while filing the Form GSTR 3B for the month of March 2020. In these circumstances, learned counsel makes a request that the petitioner be provided an opportunity. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that notice in Form ASMT 10 was issued to the petitioner in March 2023 after noticing discrepancies in the returns of the petitioner. He also points out that the impugned order was preceded by a show cause notice dated 10.05.2023 and the petitioner did not respond thereto. As regards rectification of the error, he points out that ITC was reversed much later in March 2020.

5. On perusal of the impugned order, it is evident that the tax proposal was confirmed on the ground that the petitioner failed to file written objections to the show cause notice or attend personal hearing. Since the petitioner asserts that the inadvertent error was rectified both in Form GSTR 9 and in the GSTR 3B return from March 2020, the interest of justice warrants that the petitioner be provided another opportunity to contest the tax proposal by putting the petitioner on terms.

6. Therefore, the impugned order dated 27.07.2023 is set aside and the matter is remanded for reconsideration on condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of two weeks from the date of receipt of a copy of this order. The petitioner is permitted to submit a reply to the show cause notice 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 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. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

29.04.2024

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

kj

To

Assistant Commissioner (ST),
Krishnagiri-I Assessment Circle,
559-5, Kallukkurukkl Village,
Saamanthamalal post Collector,
Office Backside, Krishnagiri-635 115.

SENTHILKUMAR RAMAMOORTHY,J

kj

Writ Petition No.11185 of 2024
and W.M.P.Nos.12261 & 12263 of 2024

29.04.2024