IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **06.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.12532 of 2024
and W.M.P.Nos.13682 & 13684 of 2024

M/s.Shreya Industries,
Represented by its Partner,
Abhay Shreedhar Agte,
Survey No.287, Mornapalli Village,
Opp. SIPCOT Phase II,
Hosur 635 126. ... Petitioner

-vs-

The State Tax Officer,
Hosur (North) II,
Hosur 635 109. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the connected records pertaining to the impugned proceedings of the respondent herein made in reference No. GSTIN: 33AAOFS4796D1ZU/17-18 dated 28.12.2023 and quash the same as illegal and consequently directing the respondent herein pass an order afresh after verification of records available with the petitioner herein.

For Petitioner : Mr.Manoharan Sundaram

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

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ORDER

An order dated 28.12.2023 is assailed on the ground of breach of principles of natural justice. Pursuant to a show cause notice, the impugned order came to be issued on 28.12.2023. The petitioner asserts that such show cause notice was uploaded on the portal on the same date on which the order was issued.

2. Learned counsel for the petitioner referred to the show cause

notice and pointed out that the date specified in the show cause notice is 28.12.2023. He further submits that the impugned order is also dated 28.12.2023. Without prejudice, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the respondent. On instructions, he submits that the show cause notice was issued to the petitioner on 30.09.2023 and served on the petitioner by e-mail. He also points out that service by e-mail is one of the recognized modes of service under Section 169 of applicable GST enactments.

4. On perusal of the impugned order, it is evident that the tax proposal pertains to mismatches between returns filed by the petitioner and the auto populated GSTR 2A or the profit and loss account of the petitioner. The tax proposals were confirmed because the petitioner failed to reply to the show cause notice. The petitioner

has pointed out technical defects in the show cause notice uploaded on the GST portal. In these circumstances, the interest of justice warrants that an opportunity be provided to the petitioner to contest the tax demand on merits, albeit by putting the petitioner on terms.

5. For reasons set out above, the impugned order dated 28.12.2023 is set aside, subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to within a maximum period of ***three weeks*** from the date of receipt of a copy of this order. Within the aforementioned period, the petitioner is also permitted to submit a reply to the show cause notice. Upon receipt thereof 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 assessment order within a period of ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.No.12532 of 2024 is disposed of on the above terms. No

costs. Consequently, W.M.P.Nos.13682 and 13684 of 2024 are closed.

06.06.2024

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

To

The State Tax Officer,
Hosur (North) II,
Hosur 635 109.

SENTHILKUMAR RAMAMOORTHY,J

rna

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