IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.11217 of 2024
and W.M.P.Nos.12306 & 12307 of 2024

M/s.Raj Rekha,
Represented by its Partner,
No.25, 2nd Floor, Godown Street,
Chennai 600 001. ... Petitioner

-vs-

The Deputy State Tax Officer-II (FAC),
Kothawalchavadi Assessment Circle,
Elephant Gate Bridge Road,
Chennai 03. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of the respondent in Order dated 31.07.2023 in GSTN 33AAFFR5539Q1ZM/2018-19 and quash the same as illegal, arbitrary and in violation of principle of natural justice.

For Petitioner : Ms.C.Rekhakumari

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

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ORDER

An order in original dated 31.07.2023 is challenged on the ground of denial of reasonable opportunity to the petitioner. The petitioner asserts that he was unaware of proceedings culminating in the impugned order because GST compliances were entrusted to an accountant and such accountant failed to verify the "view additional notices and orders" tab of the GST portal. The present writ petition was filed in these facts and circumstances.

2. Learned counsel for the petitioner submits that the tax proposal pertains to the credit notes issued by the supplier. She submits that Input Tax Credit was availed of net of the value of such credit notes. If provided an opportunity, she submits that the

petitioner would be in a position to explain the discrepancy to the respondent. On instructions, she submits that the petitioner agrees to remit 10% 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 proceedings were initiated against the petitioner by issuing notice in Form ASMT 10, which was followed by show cause notice dated 20.06.2023 and personal hearing notice dated 27.07.2023.

4. On perusal of the impugned order, it is evident that the tax proposal pertained to the alleged failure of the petitioner to reverse Input Tax Credit to the extent of credit notes issued by suppliers. Learned counsel for the petitioner contended that Input Tax Credit was availed of net of the value of such credit notes. In these circumstances, it is just and necessary that the petitioner be provided an opportunity, albeit by putting the petitioner on terms.

5. For reasons set out above, impugned order dated 31.07.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand as agreed to within a maximum period of ***two weeks*** from the date of receipt of a copy of this order. Within the said 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 order within a period of ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.No.11217 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.12306 and 12307 of 2024 are closed.

30.04.2024

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

To

The Deputy State Tax Officer-II (FAC),
Kothawalchavadi Assessment Circle,
Elephant Gate Bridge Road,
Chennai 03.

SENTHILKUMAR RAMAMOORTHY,J

rna

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