IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.10949 of 2024
and W.M.P.No.12046 of 2024

M/s.Shree Adinath Creation,
Represented by its Proprietor
Mr.Jitendra K.Jain
181, Sukrawarpettai,
Coimbatore-641 001. ... Petitioner

-vs-

The State Tax Officer
RG Street Circle
Coimbatore. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the impugned proceedings of the respondent in GST:33ADHPJ4214B1ZA/2021-2022 dated 1.9.2023 and the summary of the order in Form GST DRC-07 dated 1.9.2023 passed in Reference No.ZD3309230050403 and quash the same as passed contrary to the provisions of the CGST Act, 2017 and TNGST Act, 2017 and also in violation of principles of natural justice.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (Taxes)

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ORDER

An order in original dated 10.09.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that he was unaware of proceedings culminating in the impugned order because the notices and impugned order were only uploaded on the portal and not communicated to the petitioner through any other mode. The petitioner states that he became aware of the order only upon receipt of a communication regarding the attachment of the petitioner's bank account.

3. Learned counsel for the petitioner referred to the bank statement of the petitioner and pointed out that a sum of Rs.3,09,574/-, which covers tax, interest and penalty, was appropriated from the petitioner's bank account on 28.02.2024. By further submitting that the tax proposal pertains to discrepancy between the petitioner's GSTR 3B returns and the auto populated GSTR 2B, he submits that the petitioner has necessary documents to explain the discrepancy.

4. Mr.T.M.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that the petitioner was provided sufficient opportunity to contest the tax demand on merits and that the show cause notice was followed by two reminders.

5. The petitioner has placed on record the bank statement. Such statement discloses that a sum of Rs.3,09,574/- was appropriated from the petitioner's bank account. This amount appears to

correspond to the entire demand towards tax, interest and penalty. Consequently, at this juncture, revenue interest is fully secured. Since the petitioner asserts that he is in a position to explain the discrepancy between his GSTR 3B returns and the auto populated GSTR 2B, it is just and appropriate that an opportunity be provided to the petitioner.

6. For reasons set out above, the impugned order dated 01.09.2023 is set aside and the matter is remanded for reconsideration. The petitioner is permitted to file a reply to the show cause notice dated 27.4.2023 within two weeks from the date of receipt of a copy of this order. 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. For the avoidance of doubt, it is made clear that the amount appropriated from the petitioner's bank shall abide by the

outcome of the remanded proceedings. As a result of the impugned order being set aside, the attachment is raised.

7. W.P.No.10949 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.No.12046 is closed.

25.04.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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To

The State Tax Officer
RG Street Circle
Coimbatore.

<u>SENTHILKUMAR RAMAMOORTHY J.</u>

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