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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.11488 of 2024
and
W.M.P. Nos.12593 & 12594 of 2024

M/s. SivaSakthi Agencies,
Rep.by its Proprietor,
Mr. Natarajan Sivakumar ... Petitioner

Versus

Assistant Commissioner (ST),
Thirumullaivoyal Assessment Circle,
Integrated Commercial Taxes Building,
Thiruvallur Division,
No.32, Elephant Gate Bridge Road,
Chennai – 600 003. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorarified Mandamus, calling for the records leading to the issuance of Order bearing reference number ZD331123000707Z dated 01.11.2023 in Form GST DRC-07 along with the proceedings Order in 33BDRPS3261G1ZB / 2017-18 dated 01.11.2023, herein and quash the same, and direct the Respondent herein to consider the July 2017 month returns, with a direction that the

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Bonafide error and subsequently which is to consider and reassess the case with best of act.

For Petitioner : Mr. T.C. Prakash

For Respondent : Mrs. K. Vasanthamala,
Government Advocate (Tax)

ORDER

An order dated 01.11.2023 is challenged on the ground of breach of principles of natural justice.

2. The petitioner asserts that he was unaware of proceedings culminating in the impugned order because the show cause notice and order were uploaded on the GST portal but not communicated to the petitioner through any other mode.

3. Learned counsel for the petitioner makes a request that the petitioner be provided an opportunity to contest the tax demand on merits. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

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4. Mrs. K. Vasanthamala, learned Government Advocate (Tax), accepts notice for the respondent. She points out that a notice in Form ASMT-10 was issued to the petitioner on 26.08.2023 and that a show cause notice was issued thereafter.

5. Upon examining the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not reply to the show cause notice. In these circumstances, albeit by putting the petitioner on terms, the matter requires reconsideration.

6. Therefore, the impugned order dated 01.11.2023 is set aside and the matter is remanded to the respondent for reconsideration subject to the condition that the petitioner remits 10% 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. 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

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within three months from the date of receipt of the petitioner's reply.

7. W.P.No.11488 of 2024 is disposed of on the above terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

30.04.2024

Index : No
Speaking Order : Yes
Neutral Case Citation: No

klt

To

The Assistant Commissioner (ST),
Thirumullaivoyal Assessment Circle,
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SENTHILKUMAR RAMAMOORTHY,J.

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