IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.11674 of 2024 and
W.M.P.Nos.12762 & 12763 of 2024

M/s.The Tile Bros.,
Represented by its Partner,
Mr.J.Santhosh Kumar,
328, Near Bharath Petroleum Bunk,
Mettupalayam Road,
Narasimmanaickenpalayam,
Coimbatore-641 031. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Periyanaickenpalayam Circle,
Coimbatore. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records leading to the issuance of assessment order in GSTIN:33AAIFT5010H1Z1/2019-2020 dated 31.08.2023 passed by the respondent and quash the same.

For Petitioner : Ms. Sri Harini S.P.

For Respondent : Mr.C.Harsha Raj, AGP (T)

ORDER

An order in original dated 31.08.2023 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 intimation, show cause notice and impugned order were uploaded on the "View Additional Notices and Orders" tab on the GST portal and not communicated to the petitioner through any other mode.

3. Learned counsel for the petitioner referred to the show cause notice and pointed out that no details are contained in the show cause notice with regard to the particulars of the tax proposal. She also points out that pursuant to the impugned order the petitioner has paid a sum of Rs.90,000/- towards the tax liability and that this amount is more than 10% of the disputed tax demand. If provided another opportunity, learned counsel submits that the petitioner would be in a position to explain the mismatch between the GSTR 3B returns and GSTR 2A.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He submits that he does not have instructions with regard to the payment of Rs.90,000/- by the petitioner after the impugned order was issued.

5. On perusal of the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not respond to the show cause notice or attend the personal hearing. The petitioner has placed on record proof that the petitioner's electronic credit ledger was debited to the extent of Rs.90,000/-. Since learned Additional Government Pleader does not have instructions in this regard, the respondent may verify whether such payment was towards the tax liability under the impugned order. Subject to such verification, the interest of justice warrants that an opportunity be provided to the petitioner.

6. For reasons set out above, W.P.No.11674 of 2024 is disposed of by directing that the impugned order dated 31.08.2023 be treated as a show cause notice. The petitioner is permitted to submit a reply in respect thereof

within a period of two weeks from the date of receipt of a copy of this order. Upon receipt of the petitioner's reply and upon being satisfied that the petitioner has remitted a sum of Rs.90,000/- towards the tax liability, 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. In case it is found that the remittance made by the petitioner is not towards the tax demand under the order impugned herein, reconsideration by the respondent will be subject to the petitioner remitting 10% of the disputed tax demand.

7. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

03.06.2024

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

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SENTHILKUMAR RAMAMOORTHY,J

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To

The Assistant Commissioner (ST),
Periyanaickenpalayam Circle,
Coimbatore.

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