IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.12181 of 2024
and W.M.P.Nos.13275 & 13276 of 2024

M/s.M.B.Travels,
Represented by Mr.Selvaraj Shankar,
No.34/8, 2nd floor,
HVF Road, Avadi,
Chennai-600 054. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Avadi Assessment Circle,
Integrated Commercial Taxes Building (North Dvn),
First Floor, Room No.124,
Elephant Gate Bridge Road,
Vepery, Chennai-600 003. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the order in GSTIN/33BIJPS9633P3ZB/2017-2018 dated 20.11.2023 (Reference No.ZD331123120618T) passed by the respondent and quash the same as in violation of principles of natural justice as proper opportunity was not given, contrary to law and unsustainable.

For Petitioner : Mr.M.A.Mudimannan

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

ORDER

An order in original dated 20.11.2023 is assailed primarily on the ground of denial of a personal hearing.

2. The petitioner asserts that he was unaware of proceedings culminating in the order impugned herein because the notice and order were uploaded on the GST portal and not communicated to the petitioner through any of the other modes prescribed in Section 169 of applicable GST enactments.

3. Learned counsel for the petitioner invited my attention to the impugned order and pointed out that the alleged date of personal hearing is blank in the reference column. Similarly, he submits that the date of personal hearing is blank in the body of the order. On instructions, he

submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that the impugned order was preceded by a notice in Form ASMT 10 dated 11.07.2023, show cause notice dated 18.08.2023 and more than one personal hearing notice.

5. As a registered person under applicable GST enactments, the petitioner was under an obligation to monitor the GST portal on an ongoing basis. Therefore, the explanation provided by the petitioner is wholly not satisfactory. At the same time, on perusal of the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not reply to the show cause notice or participate in proceedings. In these circumstances, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits, albeit by putting the petitioner on terms.

6. For reasons set out above, the impugned order dated 20.11.2023 is

set aside and the matter is remanded for reconsideration on condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of 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 and annex relevant documents. 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 within three months from the date of receipt of the petitioner's reply.

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

05.06.2024

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

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SENTHILKUMAR RAMAMOORTHY,J

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To

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