IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.12406 of 2024
and W.M.P.Nos.13534 & 13535 of 2024

Stem Infrastructure,
Rep. by its Proprietor,
Mr.A.Kumar,
No.2, Ground Floor,
Bharadhiyar Street, M.G.R.Nagar,
Tambaram West, Chennai 600 045. ... Petitioner

-vs-

The Assistant Commissioner, (ST),
Tambaram Assessment Circle,
Integrated CT & Regn. Department Building,
South Tower, Room No.342,
Nandanam,
Chennai 600 035. ... 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 on the file of the respondent in GSTIN: 33ACEFS9721L1ZS/2017-18 dated 18.12.2023 and to quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice and to direct the respondent to consider the letter of request dated 22.11.2023 submitted by the writ petitioner.

For Petitioner : Ms.S.Kanmani Annamalai

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

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ORDER

An order dated 18.12.2023 is assailed on the ground that the petitioner was unaware of proceedings culminating in the impugned order because the petitioner had engaged the services of an Accountant to handle GST compliances and such Accountant did not inform the petitioner about these proceedings.

2. Learned counsel for the petitioner submits that a request for an adjournment was made by communication dated 22.11.2023, but such communication was disregarded while issuing the impugned order. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that the impugned order was preceded by an intimation dated 15.09.2023, a show cause notice dated 23.09.2023 and two reminders. He also submits that he has no instructions with regard to the communication dated 22.11.2023.

4. On perusal of the impugned order, it is evident that the tax proposal pertains to the mismatch between the GSTR 3B returns of the petitioner and the auto populated GSTR 2A. It is also evident that the tax proposal was confirmed because the petitioner did not reply

to the show cause notice and the personal hearing notices. In effect, the tax proposal was confirmed without considering the objections of the petitioner. In these circumstances, albeit by putting the petitioner on terms, it is just and necessary to provide the petitioner an opportunity to contest the tax demand on merits.

5. For reasons set out above, the impugned order dated 18.12.2023 is set aside subject to the 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 aforementioned 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 assessment order within a period of ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.No.12406 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.13534 and 13535 of 2024 are closed.

07.06.2024

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

To

The Assistant Commissioner, (ST),
Tambaram Assessment Circle,
Integrated CT & Regn. Department Building,
South Tower, Room No.342,
Nandanam,
Chennai 600 035.

SENTHILKUMAR RAMAMOORTHY,J

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