IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.11999 & 12782 of 2024
and W.M.P.Nos.13096, 13099, 13949 & 13950 of 2024

M/s.Sri Vinayaka Industries,
Represented by its Partner S.Vijayakumar,
SF No.534/2, Chettipalayam Road,
Opp Dresser Valve,
Eachanari Post, Coimbatore,
Tamil Nadu 641 021. ... Petitioner in both WP's

-vs-

1.The Deputy State Tax Officer,
Podanur Assessment Circle,
Coimbatore.

2.The Commissioner of GST Appeals,
No.6/7, A.T.D.Street,
Race Course Road,
Coimbatore – 641 018. ... Respondents in both WP's

PRAYER in W.P.No.11999 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records relating to impugned order passed by the 1st respondent bearing reference GSTIN: 33ABKFS8764L1ZF/2018-19 Date: 20.07.2023 and quash the same.

PRAYER in W.P.No.12782 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records relating to impugned order passed by the 1st respondent bearing reference GSTIN: 33ABKFS8764L1ZF/2019-20 Date: 09.11.2023 and quash the same.

For Petitioner in both WP's : Ms.S.Yogalakshmi

For Respondents in both WP's : Mr.C.Harsha Raj, AGP (T)

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COMMON ORDER

In both these writ petitions, orders imposing interest on the petitioner are assailed on the ground of breach of principles of natural justice. By asserting that the petitioner was unaware of the show cause notice or the personal hearing notices because such notices were uploaded on the GST portal but not communicated to the petitioner through any other mode, the present writ petitions were filed.

2. Learned counsel for the petitioner submits that the petitioner did not have an opportunity to contest the proposal for interest on merits because the show cause notice was uploaded on the GST portal and not communicated to the petitioner through any other mode. She seeks an opportunity to contest the demand for interest on merits. On instructions, she submits that the petitioner agrees to remit 20% of the demand towards interest as a condition for remand.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondents. He points out that the impugned order was preceded by an intimation and a show cause notice. He also points out that three personal hearing notices were issued.

4. On perusal of orders impugned herein, it appears that the

proposal pertains to payment of interest for belated filing of returns and payment of tax. It is also clear that such order was issued without hearing the petitioner because the petitioner did not respond to notices issued before such order was pronounced. In these facts and circumstances, the interest of justice warrants that an opportunity be provided to the petitioner by putting the petitioner on terms.

5. For reasons set out above, the impugned orders dated 20.07.2023 and 09.11.2023, respectively, are set aside, subject to the condition that the petitioner remits 20% of the interest demand under each assessment order 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 20% of the interest demand in respect of each assessment was received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh

assessment orders within a period of ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.Nos.11999 and 12782 of 2024 are disposed of on the above terms. No costs. Consequently, W.M.P.Nos.13096, 13099, 13949 and 13950 of 2024 are closed.

07.06.2024

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

To

1.The Deputy State Tax Officer,
Podanur Assessment Circle,

Coimbatore.

2.The Commissioner of GST Appeals,
No.6/7, A.T.D.Street,
Race Course Road,
Coimbatore – 641 018.

SENTHILKUMAR RAMAMOORTHY,J

rna

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