IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.12184 of 2024
and W.M.P.Nos.13278 & 13279 of 2024

M/s.MAC PACK,
Represented by Mrs.P.Vimala,
No.14/1, K.M.A.Garden Industrial Estate,
Kodungaiyur, Chennai-600 118. ... Petitioner

-vs-

Deputy State Tax Officer-I,
Kodungaiyur Assessment Circle,
Integrated Commercial Taxes Office Complex,
No.32, Elephant Gate Bridge Road,
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 Reference No.ZD331123044567L in GSTN:33AAEPV2739H1ZL dated 06.11.2023 (DRC-07 dated 08.11.2023) passed by the respondent and quash the same as violative of principles of natural justice as no proper opportunity was 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 08.11.2023 is assailed primarily on the ground of denial of a personal hearing.

2. The petitioner asserts that she 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 submits that the petitioner received a show cause notice dated 15.09.2023 alleging that the petitioner had wrongly availed of Input Tax Credit (ITC). Learned counsel for the petitioner seeks another opportunity for the petitioner to place all relevant documents on record and contest the tax demand on merits. 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 14.08.2023, show cause notice dated 15.09.2023 and a 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 08.11.2023 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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