IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.11995, 12000 & 12005 of 2024 and
W.M.P.Nos.13092 to 13095, 13097 & 13098 of 2024

M/s.Sumathi Constructions,
Represented by its Proprietor R.Chandrakannan,
17/1, Adam Sahib Street,
Royapuram, Chennai-600 013. ... Petitioner in all WPs

vs

The Deputy State Tax Officer-I,
Royapuram Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai-600 003. ... Respondent in all WPs.

Prayer in W.P.No.11995 of 2024: Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records of the impugned order of the respondent in GISTIN:33ACSPC2077R1Z2/2019-2020 dated 08.09.2023 along with order and summary of order in Reference No.ZD330923041358C dated 08.09.2023 and quash the same and consequently direct the respondent to entertain the records, documents and reply from the petitioner and then pass order after affording a personal hearing to the petitioner.

Prayer in W.P.No.12000 of 2024: Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records of the impugned order of the respondent in GISTIN:33ACSPC2077R1Z2/2021-2022 dated 25.08.2023 along with order and summary of order in Reference No.ZD330823146620L dated 25.08.2023 and quash the same and consequently direct the respondent to entertain the records, documents and reply from the petitioner and then pass order after affording a personal hearing to the petitioner.

Prayer in W.P.No.12005 of 2024: Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records of the impugned order of the respondent in GISTIN:33ACSPC2077R1Z2/2020-2021 dated 08.09.2023 along with order and summary of order in Reference No.ZD330923039129B dated 08.09.2023 and quash the same and consequently direct the respondent to entertain the records, documents and reply from the petitioner and then pass order after affording a personal hearing to the petitioner.

In all WPs

For Petitioner : Mr.M.Hariharan

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate (T)

COMMON ORDER

By these writ petitions, assessment orders relating to assessment years 2019-2020, 2020-2021 and 2021-2022 are challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that he was unaware of proceedings culminating in the orders impugned herein because the intimation and show cause notice which preceded the impugned orders were uploaded on the "View Additional Notices and Orders" tab on the GST portal.

3. Learned counsel for the petitioner points out that the tax proposal pertains to the mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. By further submitting that a sum of about Rs.47,00,000/- was recovered from the petitioner pursuant to orders impugned herein, learned counsel seeks another opportunity to contest the tax demand on merits.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. By drawing reference to the impugned orders,

learned counsel points out that sufficient opportunity was provided to the petitioner by issuing an intimation, show cause notice and multiple personal hearing notices.

5. On perusal of orders impugned herein, it is clear that the tax proposal was confirmed because the petitioner did not reply to the show cause notice or attend the personal hearing. The petitioner has placed on record the recovery notice for an aggregate sum of Rs.82,81,148/- and proof of remittance of about Rs.47,00,000/- by the petitioner in relation to demands for about four assessment periods. Therefore, the amount recovered from the petitioner represents more than 50% of the disputed tax demand. Since revenue interest has been protected to this extent, the interest of justice warrants that an opportunity be provided to the petitioner to contest the tax demand on merits. For that limited purpose, the orders impugned herein call for interference.

6. Therefore, the impugned orders dated 25.08.2023 and 08.09.2023 are set aside and these matters are remanded for reconsideration. The petitioner is permitted to submit a reply to the respective show cause notice within a period of two weeks from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to provide a reasonable

opportunity to the petitioner, including a personal hearing, and thereafter issue fresh orders within a period of three months from the date of receipt of the petitioner's reply. For the avoidance of doubt, it is made clear that amounts appropriated pursuant to orders impugned herein shall abide by the outcome of the remanded proceedings.

7. These writ petitions are 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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To

The Deputy State Tax Officer-I,
Royapuram Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road, Chennai-600 003.

SENTHILKUMAR RAMAMOORTHY J.

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