IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **06.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.12624 of 2024
and W.M.P.Nos.13785 & 13786 of 2024

M/s.Sri Amman Agency rep.by
Its Proprietor Sri N.Duraisamy,
No.1/94/2, R.Pudupalayam,
Rasipuram,
Namakkal – 637 408. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Rasipuram,
Namakkal. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records of the respondent herein in GSTIN: 33ASPPD9728F1ZK/2017-18 and quash the proceeding dated 03.11.2023 passed therein.

For Petitioner : Mr.B.Raveendran

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

****

ORDER

An order in original dated 03.11.2023 is assailed primarily on the ground of breach of principles of natural justice. By asserting that the show cause notice and impugned order were uploaded on the "view additional notices and order tab of the GST portal" and not communicated to the petitioner through any other mode, the present writ petition was filed.

2. Learned counsel for the petitioner submits that the petitioner was deprived of a reasonable opportunity on account of not being aware of the show cause notice. If provided an opportunity, he submits that the petitioner would establish that only eligible ITC was claimed. Without prejudice, on instructions, he 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 a show cause notice dated 21.09.2023 and that a personal hearing was offered to the petitioner in October 2023.

4. On perusal of the impugned order, it is evident that the tax proposal pertains to mismatches between GSTR 3B of the petitioner and the auto populated GSTR 2A. Such tax proposals were confirmed because the petitioner failed to attend the personal hearing. Upon considering the facts and 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.

5. For reasons set out above, the impugned order dated 03.11.2023 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.12624 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.13785 and 13786 of 2024 are closed.

06.06.2024

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

To

The Assistant Commissioner (ST),
Rasipuram,
Namakkal.

SENTHILKUMAR RAMAMOORTHY,J

rna

W.P.No.12624 of 2024
and W.M.P.Nos.13785 & 13786 of 2024

06.06.2024