IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.12403 of 2024
and W.M.P.Nos.13530, 13531 & 13532 of 2024

Tvl. God Venkateswara Transport
represented by its Proprietrix: Mani Thulasi Rani
No.27, Lakshmi Ganapthy Street,
Epr Nagar, Ullagaram,
Chennai, Kancheepuram 600 091. ... Petitioner

-vs-

1.Assistant Commissioner (ST)
Madipakkam Assessment Circle,
Room No.233, 2nd Floor
Integrated Commercial Taxes and
Registration Department Building
Anna Salai Nandanam Chennai – 35.

2.Deputy Commissioner (ST), (FAC)
Tambaram Zone,
Room No.516, 5th Floor
Integrated Commercial Taxes and
Registration Department Building
Anna Salai Nandanam Chennai – 35.

3.The Bank Manager,
Federal Bank
No.84, MTH Road, Venkitapuram
Ambattur, Chennai 600 053. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records on the file of the 1st respondent passed in GSTIN 33ADPPT0175P1ZV/2017-18 and consequential order in Form GST DRC – 07 having Reference No. ZD3311231152138 under Section 74 of the Act all dated 20.11.2023 for the tax period July 2017 – March 2018 relating to Financial Year 2017-18 quash the same as illegal, contrary to the provisions of the Act and against the principles of natural justice.

For Petitioner : Mr.Prithvi Chopda
for Ms.P.Aruna Chopda

For Respondents : Mrs.K.Vasanthamala, GA (T)

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ORDER

An order in original dated 20.11.2023 is challenged in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that he carries on the business of providing goods transport agency services, which fall within the reverse charge mechanism. By further asserting that the petitioner's consultant inadvertently failed to reply to the show cause notice, the present writ petition was filed.

2. Learned counsel for the petitioner submits that the services provided by the petitioner fall under the reverse charge mechanism and, therefore, the recipient of services was liable to pay GST. He

further submits that the recipients were two corporate entities, which paid GST on reverse charge basis. He seeks an opportunity to establish the above before the respondents. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondents. She submits that the impugned order was preceded by an intimation dated 13.07.2023, show cause notice dated 07.09.2023 and a personal hearing notice dated 25.10.2023. Therefore, she contends that principles of natural justice were complied with.

4. On perusal of the impugned order, it is evident that the tax liability pertains to the mismatch between the petitioner's GSTR 1 and GSTR 3B. Learned counsel for the petitioner contended that such mismatch occurred because the petitioner committed an inadvertent error while filling up the GSTR 1 statement by not

indicating the amount in the appropriate row and column pertaining to supplies on reverse charge basis. Since such order was issued on the ground that the tax payer did not reply to the show cause notice, 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, impugned order dated 20.11.2023 is set aside on 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 said 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 first respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of ***three months*** from the date of receipt of the petitioner's reply. In view of the impugned order being set aside, the

consequential attachment is raised. For the avoidance of doubt, it is made clear that the amount remitted by the petitioner as a condition for remand shall be subject to the outcome of the remanded proceedings.

6. W.P.No.12403 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.13530, 13531 and 13532 of 2024 are closed.

30.04.2024

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

To

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