IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.13026 of 2024 and
W.M.P.Nos.14183 & 14184 of 2024

M/s.Urbane Industries Limited,
Represented by R.Krishnamohan,
Director, Palm 107,
1st floor, Orchid Springs,
54 Water Canal Road,
Korattur, Chennai-600 076. ... Petitioner

-vs-

The State Tax Officer,
4/109, Integrated Goods and Services Taxes Building,
2nd floor, Chennai Bangalore Highway,
Nazarathpettai, Chennai-600 123. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the case relating to the impugned order GSTIN:33AAACU7448R2ZN/2017-2018 dated 08.12.2023 of the respondent and to quash the same.

For Petitioner : Mr.J.Shankarraman

For Respondent : Mr.T.N.C.Kaushik, Addl. Govt. Pleader (T)

ORDER

An order in original dated 08.12.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. By asserting that the petitioner's factory had been closed for a long time and that the petitioner was, therefore, unaware of proceedings until a phone call was received recently, the present writ petition was filed.

3. Learned counsel for the petitioner submits that the show cause notice and impugned order were uploaded on the portal, but not communicated to the petitioner through any other mode. By referring to the impugned order, learned counsel further submits that such order is completely unreasoned and merely records that the tax proposal is confirmed.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader,

accepts notice for the respondent. He points out that the notice in Form ASMT 10 was issued upon scrutiny of the petitioner's return. This was followed by a show cause notice and a personal hearing notice. Hence he submits that principles of natural justice were complied with.

5. On perusal of the impugned order, it appears that the tax proposal was based on a comparison of the petitioner's GSTR 3B returns and Form 26AS. It is also evident that such proposal was confirmed because the petitioner did not respond to the show cause notice. By taking into account the fact that the petitioner asserts that he did not participate in proceedings on account of being unaware of such proceedings, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits by putting the petitioner on terms. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

6. For reasons set out above, the impugned order dated 08.12.2023 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 four weeks from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply to the show cause notice within the aforesaid period. 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 a period of 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.

10.06.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No
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<u>SENTHILKUMAR RAMAMOORTHY,J</u>

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To

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