IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **06.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.12682 of 2024
and W.M.P.Nos.13832 & 13834 of 2024

Tvl. Priya Tiles and Interiors,
Represented by its Proprietor,
Plot No.5, Aravind Nagar 1st Street,
Madambakkam, Chennai-600 073. ... Petitioner

-vs-

The Deputy State Tax Officer,
Selaiyur Assessment Circle,
Integrated Commercial Taxes Office Building,
Chengalpattu Divison, No.341, Nandanam,
Chennai-600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari calling for the records of the respondent vide his Order of Assessment bearing Reference No.ZD331223281278F in DRC07/GSTN:33ADJPR1090B1ZW/2017-18 dated 30.12.2023 and to quash the same.

For Petitioner : Mr.R.Ganesh Kanna

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader (T)

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ORDER

An order in original dated 30.12.2023 is assailed on the ground of denial of a reasonable opportunity to contest the tax demand on merits.

2. By asserting that the petitioner was unable to respond to the show cause notice or participate in personal hearings on account of various personal difficulties, the present writ petition was filed. The petitioner also alleges that the proceedings were held in breach of Rule 88C of the Central Goods and Services Tax (CGST) Rules. 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.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He points out that the impugned order was preceded by a notice in Form ASMT- 10 and a show cause notice. He also submits that Rule 88C is not applicable to the present case.

4. On perusal of the impugned order, it is evident that the tax proposal pertained to a mismatch between the petitioner's GSTR 1 statement and GSTR 3B returns. Such order records that the tax proposal is confirmed because the petitioner did not reply to the show cause notice. In the facts and circumstances outlined above, the interest of justice warrants that an opportunity be provided to the petitioner to contest the tax demand on merits, by putting the petitioner on terms.

5. For reasons set out above, the order impugned dated

30.12.2023 is set aside subject to the 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. In the said period, the petitioner is permitted to file a reply to the show cause notice. Upon receipt thereof and on 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.

6. W.P.No.12682 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.13832 & 13834 of 2024 are closed.

06.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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To

The Deputy State Tax Officer,
Selaiyur Assessment Circle,
Integrated Commercial Taxes Office Building,
Chengalpattu Divison, No.341, Nandanam,
Chennai-600 035.

SENTHILKUMAR RAMAMOORTHY,J

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