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.13390 of 2024 and
W.M.P.Nos.14547 & 14548 of 2024

Tvl. Bashir Maligai Stores,
Represented by its Proprietor
Pakkirimohamed Bashir,
No.21, Palli Vasal First street,
Thiruvadur, Pavunjur,
Kancheepuram-603 312. ... Petitioner

-vs-

The Deputy State Tax Officer-1,
Madhuranthakam Assessment Circle,
15/9, Car street,
Madhuranthakam. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records on the file of the impugned proceedings of the respondent in vide Form DRC-07 in GSTIN No.33BFGPB5204R2ZG/2017-2018 dated 31.12.2023 for the period 2017-2018, quash the same as being contrary to the provision of CGST Act, 2017.

For Petitioner : Mr.S.Rajendran

For Respondent : Mr.C.Harsha Raj, Addl. Govt. Pleader (T)

ORDER

An order in original dated 31.12.2023 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 states that his GST registration was cancelled by order dated 21.10.2020 with effect from 31.12.2017. Consequently, he states that he had no reason to monitor the GST portal. The present writ petition was filed in such circumstances.

2. Learned counsel for the petitioner submits that the petitioner did not receive notice in Form ASMT 10 or an intimation. He further submits that the petitioner was unaware of proceedings because his GST registration was cancelled in 2020.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. By referring to the impugned order, he points out that such order refers to a notice in Form ASMT 10 and to the show cause notice dated 29.09.2023. Therefore, he contends that principles of natural

justice were complied with.

4. The petitioner has placed on record evidence that his GST registration was cancelled on 21.10.2020 with effect from 31.12.2017. In those circumstances, the submission that the petitioner was not monitoring the portal is not entirely devoid of merits. At the same time, it is noticeable that the petitioner was put on notice about the discrepancies in returns by issuing notice in Form ASMT 10. In these circumstances, it is just and necessary to provide an opportunity to the petitioner to contest the tax demand on merits, albeit by putting the petitioner on terms. On instructions, learned counsel for the petitioner submits that the petitioner is willing to remit 10% of the disputed tax demand as a condition for remand.

5. For reasons set above, the impugned order dated 31.12.2023 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 three weeks from the date of receipt of a copy of this order. The petitioner is 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.

6. 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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To

The Deputy State Tax Officer-1,
Madhuranthakam Assessment Circle,
15/9, Car street,
Madhuranthakam.

SENTHILKUMAR RAMAMOORTHY,J

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