IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 10.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.12982 of 2024
and W.M.P.Nos.14142 & 14144 of 2024

Tvl. AVR Mills Private Limited,
Rep.by its Managing Director – Mr.N.S.Sivaraj,
40-A, Gobi Sathi Main Road, K.Ganapathipalayam,
Kasipalayam,
Gobichettipalayam 638 453.
GSTIN: 33AAGCA9714Q1Z7 ... Petitioner

-vs-

1.The Assistant Commissioner (ST),
Gobichettipalayam,
Erode.

2.The Deputy Commissioner (ST)(GST)(Appeal)
131, Brough Road, Commercial Taxes Buildings,
Erode 638 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the impugned proceedings of the 1st respondent vide Form GST DRC – 07 bearing a Ref.No. ZD330623070415L dated 16.06.2023, quash the same as being contrary to law and being violative of the principles of natural justice.

For Petitioner : Ms.R.Hemalatha

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

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ORDER

An order in original dated 16.06.2023 is assailed on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that it was unaware of proceedings culminating in the impugned order because GST compliances were entrusted to an Accountant who abruptly left the services of the company. It is further stated that the petitioner became aware of proceedings only upon recovery proceedings being initiated.

2. Learned counsel for the petitioner submits that the tax proposal pertains to mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. If provided an opportunity to contest the tax demand on merits, she submits that the petitioner would be in a position to establish that only eligible ITC was availed of. On instructions, learned counsel 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. With reference to the impugned order, he points out that the impugned order was preceded by an intimation dated 25.07.2023 and a show cause notice dated 27.01.2023.

Therefore, he contends that principles of natural justice were complied with.

4. On perusal of the impugned order, as contended by learned counsel for the petitioner, it is evident that the tax proposal pertains to the mismatch between the GSTR 3B returns of the petitioner and the auto populated GSTR 2A. It is also clear that the tax proposal was confirmed because the petitioner did not respond to the show cause notice. In these facts and circumstances, especially by taking into account the fact that the petitioner could not participate in proceedings because the petitioner was unaware of the same, the interest of justice warrants that the petitioner be provided an opportunity albeit by putting the petitioner on terms.

5. For reasons set out above, the impugned order dated 16.06.2023 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.12982 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.14142 and 14144 of 2024 are closed.

10.06.2024

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

SENTHILKUMAR RAMAMOORTHY,J

rna

To

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