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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.13367 of 2024 and**
**W.M.P.Nos.14507 & 14508 of 2024**

Amrita & Co.,
Represented by its Proprietor,
Mr.C.K.Suresh Babu,
No.36, Pillaiyar Koil street,
Pallavaram, Chennai-600 043. ... Petitioner

-vs-

Assistant Commissioner (ST),
Pallavaram Assessment Circle,
Room No.313, III Floor,
Integrated Commercial Tax & Registration Building,
Nandanam, Chennai-600 035. ... 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 respondent in his GSTN 33AOUPS9130B1ZS/2017-2018 in Form GST DRC-07 dated 15.12.2023 and quash the same.

For Petitioner : Mr.U.Sriram

For Respondent : Mrs.K.Vasanthamala, Govt. Adv. (T)

**ORDER**



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An order in original dated 15.12.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. By asserting that the petitioner had entrusted GST compliances to an auditor and that the petitioner was unaware of proceedings culminating in the impugned assessment order, the present writ petition was filed.

2. Learned counsel for the petitioner submits that the tax proposal pertains to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. He further submits that if provided an opportunity, the petitioner would be in a position to establish that only eligible Input Tax Credit (ITC) was claimed. On instructions, learned counsel 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 respondent. By referring to the impugned order, she points out that such order was preceded by a show cause notice dated 26.09.2023 and



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two reminders in respect of personal hearing.

4. On examining the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not reply to the show cause notice or participate in the personal hearing pursuant to the two reminders issued by the respondent. Since the petitioner was not heard before such order was issued, 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.

5. For reasons set out above, the impugned order dated 15.12.2023 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 two 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



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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

Assistant Commissioner (ST),
Pallavaram Assessment Circle,
Room No.313, III Floor,
Integrated Commercial Tax & Registration Building,
Nandanam, Chennai-600 035.

**SENTHILKUMAR RAMAMOORTHY,J**



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