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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.14259 of 2024

&

WMP Nos.15463 & 15464 of 2024

Balaji Traders
Rep. By its Proprietor,
Devandiran,
No.61/2, ECR Road, Poonjeri,
Kanchipuram-603 104. ... Petitioner

Versus

1. The Deputy Commissioner (ST),
O/o. The Deputy Commissioner (ST),
GST-Appeal, Chennai-II,
3rd Floor, CT Annexe Building,
No.1, Greams Road, Chennai-600 006.
2. The State Tax Officer (ST),
Thirukazhukundaram Assessment Circle,
No.42, Wahab Nagar,
Thirukazhukundram-603 109. ...Respondents

Prayer : A Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd Respondent in Reference No.ZD33072305868E



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dated 14.07.2023 and the order passed by the 1st respondent in Rc.No.347/2024/A1 dated 14.03.2024 and quash the same and consequently direct the respondents to give an opportunity of personal hearing.

For Petitioner : Mr.P.Suresh Babu
Mr.T.Sureh
Ms.S.Manimegala

For Respondent : Mrs. K.Vasanthamala,
Government Advocate (T)

ORDER

An order in original dated 14.07.2023 is challenged in this writ petition on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits.

2. By asserting that the petitioner was unaware of the show cause notice or the order in original because the same were uploaded on the GST portal and not communicated to the petitioner through any other mode, the present writ petition was filed.



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3. Learned counsel for the petitioner submits that the impugned order was carried in appeal before the first respondent and that such appeal was rejected on the ground of limitation. He also submits that 10% of the disputed tax demand was remitted at the time of filing of the appeal.

4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondents. She submits that the order in original was issued on 14.07.2023 and that the petitioner filed the present writ petition in April, 2024. In view of such delay, she submits that the petitioner should be put on stringent terms.

5. On examining the impugned order in original, it is clear that the confirmed tax proposal pertains to mismatch between the petitioner's GSTR 3B returns and the GSTR 1 statement. Penalty of 100% has been imposed without hearing the petitioner because the petitioner did not respond to the show cause. In view of the petitioner's assertion that he was unaware of proceedings, the



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interest of justice warrants that the petitioner be provided a reasonable opportunity to contest the tax demand by putting the petitioner on terms. On instructions, learned counsel for the petitioner agrees to remit an additional 5% of the disputed tax demand as a condition for remand.

6. For reasons set out above, the impugned order dated 14.07.2023 is set aside on condition that the petitioner remits 5% of the disputed tax demand in addition to the 10% remitted earlier. Such remittance shall be made within two 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 said period. Upon receipt thereof and on being satisfied that 15% of the disputed tax demand was received in the aggregate, the 2nd respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within three months from the date of receipt of the petitioner's reply.



7. W.P.No.14259 of 2024 is disposed of the above terms.

Consequently, W.M.P.Nos.15463 & 15464 of 2024 are closed. No costs.

11.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes/ No

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To

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2. The State Tax Officer (ST),
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Chennai-600 034.

SENTHILKUMAR RAMAMOORTHY J.

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