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.13370 of 2024 and
W.M.P.Nos.14510 & 14511 of 2024

Tvl. Rajchem Scientific Traders,
Represented by its Partner,
Thiru. R.Damodara Raju,
No.1A, Majestic Apartments,
48, Arcot Road, Saligramam,
Chennai-600 093. ... Petitioner

-vs-

The Deputy State Tax Officer-II,
Saligramam Assessment Circle,
Nos.15 & 16, Malligai Avenue,
1st floor, 100 feet road,
Kolathur, Chennai-600 099. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the respondent in Reference No.ZD3312230103833 dated 02.12.2023 and quash the same and consequently direct the respondent to give an opportunity of personal hearing.

For Petitioner : Mr.P.Suresh Babu

For Respondent : Mr.V.Prashanth Kiran, Govt. Adv. (T)

ORDER

An order dated 02.12.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. By stating that the petitioner's GST registration was cancelled on 18.05.2020 with effect from 01.04.2020, the petitioner further asserts that he was unaware of the initiation of proceedings which culminated in the impugned order dated 02.12.2023.

2. Learned counsel for the petitioner referred to the order of cancellation and contended that therefore the petitioner was not monitoring the GST portal. On instructions, learned counsel submits that the petitioner agrees to remit 15% of the disputed tax demand as a condition for remand. If provided an opportunity, he submits that the petitioner would be able to establish that only eligible Input Tax Credit (ITC) was claimed.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts

notice for the respondent. On instructions, he submits that the show cause notice and order were also communicated to the petitioner by e-mail and by providing a SMS alert to the registered mobile number. Therefore, he submits that the petitioner cannot seek the indulgence of this Court by stating that the show cause notice and impugned order were only uploaded on the GST portal.

4. On examining the impugned order, it appears that the ITC claim of the petitioner was reversed after noticing that such claim was reflected in the GSTR 3B returns as inward reverse charge mechanism supplies. It is also evident that the tax proposal was confirmed because the petitioner did not reply to the show cause notice. Since the registration of the petitioner was cancelled, the explanation of the petitioner that he was not monitoring the GST portal is not devoid of merits. However, since the petitioner was also informed through e-mail and by way of SMS alert, it becomes necessary to put the petitioner on terms.

5. For reasons set out above, the impugned order dated 02.12.2023 is

set aside and the matter is remanded for reconsideration on condition that the petitioner remits 15% 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 15% 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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SENTHILKUMAR RAMAMOORTHY,J

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To

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