IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **11.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.13520 of 2024
and W.M.P.Nos.14672 & 14675 of 2024

M/s.Vijay Engineering,
Represented by its Proprietor,
Mr.CittiBabu VijayaKumar,
79, Village High Road, Sholinganallur,
Chennai, Tamil Nadu 600 119. ... Petitioner

-vs-

The Commercial Tax Officer / State Tax Officer
Kelambakkam Assessment Circle,
Commercial Taxes Department,
Room No.235, 2nd Floor, South Tower,
Nandanam, Tamil Nadu 600 028. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records leading to the issuance of Order-in-Original reference No.ZD331223190069I dated 24.12.2023 Form DRC 07 with connected proceedings reference No.GSTIN/33ADOPV7063M2ZQ/2017-18 dated 24.12.2023, by the respondent herein and quash the same, and direct to consider the matter afresh, after giving full and fair opportunity to the petitioner to submit its reply and after affording opportunity of personal hearing to the petitioner.

For Petitioner : Mr.T.C.Prakash

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

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ORDER

An order in original dated 24.12.2023 is assailed on the ground of breach of principles of natural justice. By asserting that the intimation, show cause notice and impugned order were uploaded on the GST portal, but not communicated to the petitioner through any other mode, the present writ petition was filed.

2. Learned counsel for the petitioner submits that the petitioner

was unaware of proceedings on account of the intimation and show cause notice not being served on the petitioner by registered post or any other mode. He further submits that the impugned order was not preceded by a notice in Form ASMT 10, which is mandatory in case discrepancies are found in the returns of the petitioner. Without prejudice, learned counsel submits, on instructions, 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. He points out that the impugned order was preceded by intimation dated 04.09.2023, show cause notice dated 23.09.2023 and multiple opportunities for a personal hearing.

4. On examining the impugned order, it is evident that the tax

proposal, which pertained to a mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A, was confirmed because the petitioner did not reply to the show cause notice. Since the petitioner asserts that he could not participate in the proceedings because he 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. Therefore, impugned order dated 24.12.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within ***three weeks*** from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to submit a reply to the show cause notice. On receipt thereof and on 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 ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.No.13520 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.14672 and 14675 of 2024 are closed.

11.06.2024
(1/2)

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

To

The Commercial Tax Officer / State Tax Officer
Kelambakkam Assessment Circle,
Commercial Taxes Department,
Room No.235, 2nd Floor, South Tower,
Nandanam, Tamil Nadu 600 028.

SENTHILKUMAR RAMAMOORTHY,J

rna

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