IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **11.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.14280 of 2024
and W.M.P.Nos.15496 & 15497 of 2024

Sri Selva Ganesh Hardwares,
By its Propritrix Mrs.G.Selvakani,
171, Red Hills Road, Banu Nagar,
Ambattur, Tiruvallur-600 053. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Thirumullaivoyal Assessment Circle,
Chennai North Division,
Integrated Building for Commercial Taxes Offices,
No.32, Elephant Gate Bridge Road,
Chennai-600 003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records leading to the issuance of assessment order bearing reference GSTIN:33ABTPS6713L1Z0/2017-18 dated 25.10.2023 passed by the Respondent herein and quash the same.

For Petitioner : Mr.S.P.Sri Hari

For Respondent 1 : Mr.V.Prashanth Kiran
Government Advocate (T)

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ORDER

An assessment order dated 25.10.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that he was unaware of proceedings culminating in the impugned order because the show cause notice and other communications were uploaded on the “View Additional Notices and Orders” tab on the GST portal and not communicated to the petitioner through any other mode.

3. Learned counsel for the petitioner submits that the tax proposal relates to the GSTR 3B returns of the petitioner, wherein the petitioner had inadvertently filled up Table 4(A)(3) instead of Table 4(A)(5), which is the relevant column pertaining to all other ITC. If provided an opportunity, she submits that the petitioner would be able to explain the discrepancy. On instructions, she submits that the

petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. By referring to the impugned order, he points out that such order was preceded both by a notice in Form ASMT- 10 and by show cause notice. He also submits that a personal hearing was offered to the petitioner.

5. 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. It is also clear that such proposal relates solely to the GSTR 3B returns of the petitioner and the amounts specified therein towards RCM. In these facts and circumstances, 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.

6. Consequently, the impugned order dated 25.10.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within two weeks from the date of receipt of a copy of this

order. Within the said period, the petitioner is also permitted to submit a reply to the show cause notice. Upon 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.

7. W.P.No.14280 of 2024 is disposed of on the above terms. Consequently, WMP Nos.15496 and 15497 of 2024 are closed. No costs.

11.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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To

The Assistant Commissioner (ST),
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SENTHILKUMAR RAMAMOORTHY,J

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