IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.14274 of 2024 and
W.M.P.No.15488 of 2024

Thirunavukkarasu Manivannan
Proprietor of Tvl. TMS Auto Spares
56, Lake View Street, Adambakkam,
Chennai, Tamil Nadu-600 088. ... Petitioner

Versus

1. The State Tax Officer,
   Nanganallur Assessment Circle,
   Integrated Building for Commercial Taxes and
   Registration Department,
   2nd Floor, Room No.224,
   Nandanam, Chennai-600 035.

2. The Commercial Tax Officer,
   Nanganallur South III
   Chennai South.

3. The Manager,
   State Bank of India
   Adambakkam Branch
   No.6A, West Karikalan Street,
   Adambakkam, Chennai-600 088. ...Respondents

Prayer : A Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorarified Mandamus to call for the records of the 1st Respondent bearing the impugned order bearing reference no.33 AKGPM6774M1ZL/2019-20 dated 09.10.2023 passed by the 1st Respondent and the summary order dated 09.10.2023 issued in form DRC-7 bearing reference No.ZD331023043399L directing the Petitioner to pay a sum of Rs.5,62,926/- along with interest and penalty to quash the same and consequently direct the 2nd and 3rd respondents to de freeze the bank ac No.35625351531 of the Petitioner.

For Petitioner :Ms.S.Gayathri

For Respondents :Mrs. K.Vasanthamala,
Government Advocate for R1&R2

ORDER

An order in original dated 09.10.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. By asserting that the petitioner was unaware of proceedings on account of the show cause notice and the impugned order being uploaded on the GST portal and the petitioner's tax consultant not

informing the petitioner of the same, the present writ petition was filed.

3. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand. She also submits that Input Tax Credit (ITC) was reversed solely on account of belated filing of returns.

4. On perusal of the impugned order, it is clear that the tax proposal pertains entirely to rejection of ITC on account of belated filing of returns. The tax proposal was confirmed because the petitioner did not reply to the show cause notice. By taking into account the assertion that the petitioner was unaware of proceedings, the interest of justice warrants that the petitioner be provided a reasonable opportunity to contest the tax demand by putting the petitioner on terms.

5. For reasons aforesaid, the impugned order dated 09.10.2023 is set aside on condition that the petitioner remits 10% of the disputed

tax demand as agreed to within two weeks from the date of receipt of a copy of this order. In the said period, the petitioner is permitted to submit a reply to the show cause notice. Upon receipt thereof and upon being satisfied that 10% of the disputed tax demand was received, the first 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. On account of the assessment order being set aside, the bank attachment is raised.

6. W.P.No.14274 of 2024 is disposed of on the above terms. Consequently, WMP No.15488 of 2024 is closed. No costs.

11.06.2024

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

To

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