IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.14284 of 2024
and W.M.P.Nos.15504 & 15506 of 2024

Tvl. Muthu Packaging Works
Rep. By its Propritrix
Muthukumar Mahalaxmi
No.218, Sidco Industrial Estate,
Thirumullaivayal,
Chennai 600 062. ... Petitioner

-vs-

Proper Officer / Assistant Commissioner (ST),
Thirumullaivoyal Assessment Circle,
115, 1st Floor, Integrated Commercial Taxes,
Office Building, No.32, Elephant Gate Bridge Road,
Park Town, Chennai 600 003. ... 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 of the respondent in GSTIN: 33AGMPM1923C1ZS / 2021-22 dated 22.06.2023 and quash the same and consequently direct the respondent to given a opportunity of personal hearing.

For Petitioner : Mr.P.R.Kumar

For Respondent : Mr.C.Harsha Raj, AGP (T)

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ORDER

An order in original dated 22.06.2023 is assailed primarily on the ground of breach of principles of natural justice. By asserting that the petitioner was unaware of proceedings culminating in the impugned order because the show cause notice and other communications were uploaded in 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 tax proposal pertains to the denial of Input Tax Credit in respect of a

purchase made by the petitioner by relying on sub-section (5) of Section 17 of applicable GST enactments. He points out that the petitioner made a payment of Rs.2,00,000/- towards SGST on 28.03.2024 and a further 10% towards CGST on 29.04.2024. Without prejudice, on instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand in cash as a condition for remand.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He points out that the earlier payments of the petitioner were by debits from the electronic credit ledger, which cannot be used for pre deposit.

4. Upon examining the impugned order, it is evident that the tax proposal was confirmed because the petitioner failed to reply. Since the petitioner asserts that he was unable to participate on account of being unaware of proceedings, the interest of justice warrants that an opportunity be provided to the petitioner albeit by

putting the petitioner on terms.

5. Therefore, impugned order dated 22.06.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand in cash within a period of ***two 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 a period of ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.No.14284 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.No.15504 and 15506 of 2024 are closed.

12.06.2024

rna

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

To

Proper Officer / Assistant Commissioner (ST),
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SENTHILKUMAR RAMAMOORTHY,J

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