IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : **29.05.2024**

CORAM :

**THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

**W.P No.14401 of 2024 & WMP.Nos.15651 & 15652 of 2024**

M/s.M.M.Imports,
Represented by its authorised representative
Mr.Abdul Patha
No.19/24, Ramana Nagar, Perambur,
Jawahar Street, Chennai – 039. .. Petitioner

Vs.

The Assistant Commissioner [ST],
Villivakkam Assessment Circle,
Kolathur, Chennai – 099. ..Respondent

**PRAYER :** Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records on the file of the respondent and to quash the impugned Order dated 13.12.2023 bearing No.33AALPM4976A3Z0/2017-18 passed by the respondent as arbitrary.

For Petitioner : Mr.J.Ashish

For Respondent : Mr. Prasanth Kiran
Government Advocate [T]

**ORDER**

The writ petition has been filed to quash the impugned Order dated 13.12.2023 bearing No.33AALPM4976A3ZO/2017-18 passed by the respondent as arbitrary.

2. The learned counsel for the petitioner submits that the tax proposal pertains to the discrepancy between the petitioner's GSTR 3B return and the auto-populated GSTR 2A. On instructions, learned counsel submits that the petitioner is agreeable to remit 10% of the disputed tax demand as a condition for remand. He further submits that the petitioner has a good case, including with regard to limitation.

3. Mr.Prasanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that the show cause notice on 26.09.2023 and personal hearing offered on 06.10.2023 and the petitioner has not appearing for personal hearing. Hence, submitted that no case is made out for interference.

4. On perusal of the impugned order, it is evident that the tax proposal pertains to the discrepancy between the petitioner's GSTR 3B return and the auto-populated GSTR 2A and the consequential inference that Input Tax Credit (ITC) was wrongly availed of. It is also clear that such tax proposal was confirmed because the petitioner did not file a reply to the show cause notice. Upon considering the averments in the affidavit and contentions of learned counsel, it is just and necessary that an opportunity be provided to the petitioner to contest the tax demand by putting the petitioner on terms.

5. For reasons aforesaid, the impugned order dated 13.12.2023 is set aside and the matter is remanded for reconsideration on condition that the petitioner remits 10% 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 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. On deposit of the 10% of the tax demand, the attachment of the bank account of the petitioner shall be lifted.

6. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

**29.05.2024**

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

vrc

To

The Assistant Commissioner [ST],
Villivakkam Assessment Circle,
Kolathur, Chennai – 099.

**J.SATHYA NARAYANA PRASAD, J.**

vrc

**W.P No.14401 of 2024**

**29.05.2024**