IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **23.07.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17648 of 2024
and W.M.P.Nos.19423 & 19425 of 2024

Tvl. Deepam Constructions,
Represented by its Managing Partner,
V.Gnanaguru,
Elavalapakkam Vilagem Perumukkal Post,
Tindivanam Taluk-604 301. ... Petitioner

-vs-

The State Tax Officer ,
Tindivanam Assessment Circle,
Vellore Division, Villupuram Sub-Division. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the Respondent's order passed in GSTIN 33AAKFD2735K1ZF/2019-20 dated 31.10.2023 and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.V.Prashanth Kiran, Govt. Adv. (T)

ORDER

An order in original dated 31.10.2023 is assailed on the ground that a personal hearing was not offered to the petitioner. Upon receipt of show cause notice dated 27.10.2022 followed by three reminders in March and April 2023, the petitioner replied on 25.05.2023. By such reply, the petitioner also requested for a personal hearing. The impugned order was issued thereafter on 31.10.2023.

2. Learned counsel for the petitioner refers to earlier order dated 16.10.2023 in W.P.Nos.29886 and 29890 of 2023 and points out that this Court interfered in substantially similar facts and circumstances. By referring to the petitioner's reply, he contends that a personal hearing was not offered although specifically requested for by the petitioner.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts

notice for the respondent. He points out that three opportunities were provided to the petitioner after the show cause notice was issued. Therefore, he contends that principles of natural justice were complied with.

4. On perusal of the petitioner's reply, it is clear that the petitioner requested for a personal hearing. As per sub-section (4) of Section 75 of applicable GST statutes, a personal hearing is mandatory either if requested for or if an order adverse to the tax payer is proposed to be issued. In this case, notwithstanding the three earlier reminders, the documents on record indicate that no personal hearing was granted upon request by reply dated 25.05.2023. The petitioner has, however, approached this Court about six months after the impugned order was issued. When the facts and circumstances are considered cumulatively, reconsideration is necessary by putting the petitioner on terms. Learned counsel for the petitioner submits, on instructions, that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

5. Therefore, the impugned order dated 31.10.2023 is set aside 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 additional documents within the aforesaid period. Upon receipt thereof 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 a period of three months from the date of receipt of additional documents from the petitioner.

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

23.07.2024

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

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To

The State Tax Officer ,
Tindivanam Assessment Circle,
Vellore Division, Villupuram Sub-Division.

SENTHILKUMAR RAMAMOORTHY,J

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