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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.14669 of 2024
and W.M.P.Nos.15964 & 15966 of 2024

Mr.Palani Paramanandam,
Proprietor of
M/s.Vignesh Binding Works,
No.40, Veeraragavapuram,
Kaduvetty, Tiruvallur – 600 116. ... Petitioner

-vs-

The State Tax Officer / Commercial Tax Officer,
Avadi Assessment Circle,
No.32, Integrated Commercial Taxes Building,
Elephant Gate Bridge Road,
Vepery, Chennai 600 003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the impugned proceedings of the respondent in GSTIN: 33AAPPP8112M1ZA / 2018-2019 dated 20.07.2023 and the summary of th order in Form

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GST DRC 07 dated 20.07.2023 in Reference No.ZD330723085700H and quash the same as passed contrary to the provisions of the CGST Act, 2017 and TNGST Act, 2017 and against the principles of natural justice.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

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ORDER

An order in original dated 20.07.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. By asserting that the petitioner was unaware of proceedings culminating in the impugned order because the show cause notice and other communications were only uploaded on the GST portal, the present writ petition was filed.

2. Learned counsel for the petitioner submits that the petitioner

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had only availed of eligible Input Tax Credit (ITC). If provided an opportunity to contest the tax demand on merits, he submits that the petitioner would be in a position to justify the ITC availed of. On instructions, he submits that the petitioner agrees to remit 10% of the disputed demand relating to tax and cess.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He points out that principles of natural justice were complied with by issuing intimation dated 14.03.2023, show cause notice dated 17.05.2023 and by issuing a reminder on 13.06.2023.

4. On perusal of the impugned order, it is clear that the respondent concluded that ITC had been wrongly availed of and that the tax proposal in that regard was being confirmed because the petitioner did not reply to the show cause notice. In view of the assertion that the petitioner was unaware of proceedings, the interest of justice warrants that the petitioner be provided an opportunity to

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contest the tax demand on merits, albeit by putting the petitioner on terms.

5. Therefore, impugned order dated 20.07.2023 is set aside on condition that the petitioner remits 10% of the disputed demand towards tax and cess 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 and cess 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.14669 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.15964 and 15966 of 2024 are closed.

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

To

The State Tax Officer / Commercial Tax Officer,
Avadi Assessment Circle,
No.32, Integrated Commercial Taxes Building,
Elephant Gate Bridge Road,
Vepery, Chennai 600 003.

SENTHILKUMAR RAMAMOORTHY,J

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