IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.14650 of 2024
and W.M.P.Nos.15913 & 15914 of 2024

M/s.Mohan Enterprises, (Defunct)
Represented by its Proprietor N.Mohan
1B, 1st Floor, 238, Royapettah
Mylapore, Chennai,
Tamil Nadu 600 004.
GSTIN: 33AFCPM2920E1Z1 ... Petitioner

-vs-

O/o. Deputy / Assistant Commissioner of GST &
Central Excise, Mylapore Division,
Chennai North Commissionerate,
26/1, MG Road, Nungambakkam,
Chennai 600 034. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the file of the respondent in its impugned proceedings of the respondent order for the assessment year 2018-19, order in original No.8/2024 dated 22.03.2024, and quash the same.

For Petitioner : Mrs.R.Hemalatha

For Respondent : Mr.Sai Srujan Tayi, Sr. SC

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ORDER

An order in original dated 22.03.2024 is assailed in this writ petition on the ground of breach of principles of natural justice. By asserting that the petitioner's business was discontinued and that the show cause notice and impugned order were uploaded on 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 pertained to a mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. If provided an

opportunity, she submits that the petitioner would be in a position to reconcile the mismatch. On instructions, she submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.Sai Srujan Tayi, learned senior standing counsel, accepts notice for the respondent. By referring to the impugned order, he points out that principles of natural justice were complied with and that the respondent issued notice in Form ASMT 10 dated 17.05.2023 and show cause notice dated 06.09.2023 before issuing the impugned order.

4. On examining the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not reply to the show cause notice or attend the personal hearing. Since it is asserted that the petitioner could not reply on account of being aware of proceedings, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits, albeit

by putting the petitioner on terms.

5. Therefore, impugned order dated 22.03.2024 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.14650 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.15913 and 15914 of 2024 are closed.

13.06.2024

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

To

O/o. Deputy / Assistant Commissioner of GST &
Central Excise, Mylapore Division,
Chennai North Commissionerate,
26/1, MG Road, Nungambakkam,
Chennai 600 034.

SENTHILKUMAR RAMAMOORTHY,J

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