IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.14772 of 2024 and
W.M.P.Nos.16005 & 16006 of 2024

Mentor Infocomm India Private Limited,
No.7, KRJ Building,
3rd floor, Off Anna salai,
Chennai-600 002,
Represented by its Director
Mr.Elangovan Rajasekar. .. Petitioner

-vs-

1. State Tax Officer,
Anna salai Assessment Circle, Central – III,
Greams Road, Annex building,
4th floor, Chennai-600 006.

2. Commercial Tax Officer,
Anna salai Assessment Circle, Central – III,
Greams Road, Annex building,
4th floor, Chennai-600 006. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records in the Impugned Order dated 12.12.2023 bearing No. GSTIN/ID- 33AAHCM9079R1ZI passed by the 1st Respondent under Section 73 of the TNGST Act, 2017 and consequently the summary order dated 12.12.2023 issued in Form DRC 07- having reference no. ZD331223070704P passed by the 2nd Respondent and quash the same as being illegal, arbitrary, in excess of jurisdiction and in violation of principles of natural justice.

For Petitioner : Mr.M.V.Swaroop

For Respondents : Mrs.K.Vasanthamala, Govt. Adv. (T)

ORDER

An order in original dated 12.12.2023 is assailed in this writ petition on the ground of breach of principles of natural justice. By asserting that the show cause notice and other communications were uploaded in the "View Additional Notices and Orders" tab on the GST portal and not communicated to the petitioner through any other mode, the present writ petition was filed.

2. Learned counsel for the petitioner invited my attention to the show cause notice and contended that the tax proposal set out therein is unintelligible. He also submits that it appears to pertain to the turnover during the pre-GST period and that the petitioner paid requisite VAT in respect of such turnover.

3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondents. She points out that principles of natural justice were complied with by issuing show cause notice dated 30.09.2023 and two reminders dated 06.11.2023 and 02.12.2023.

4. On examining the impugned order, it appears that tax liability of Rs.33,08,293/- was imposed on the turnover of Rs.3,67,58,813/-, which the petitioner asserts was the turnover between April and June 2017 (i.e. pre-GST period). The tax proposal was confirmed without the petitioner being

heard. In the facts and circumstances outlined above, the interest of justice warrants that the petitioner be provided an opportunity to establish that the turnover on which GST was imposed falls within the pre-GST period and that requisite VAT was paid thereon. However, since the petitioner did not respond to the show cause notice and other communications, it is necessary to put the petitioner on terms. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 5% of the disputed tax demand as a condition for remand.

5. For reasons aforesaid, the impugned order dated 12.12.2023 is set aside on condition that the petitioner remits 5% 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 5% of the disputed tax demand was received, the 1st 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. For the avoidance of doubt, it is made clear that the amount remitted by the petitioner as a condition for remand shall abide by the outcome of the remanded proceedings.

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

13.06.2024

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

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To

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SENTHILKUMAR RAMAMOORTHY,J

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