IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.14978 of 2024 and
W.M.P.Nos.16265 & 16267 of 2024

Tvl. Samikannu Mariappan .. Petitioner

-vs-

1. The State Tax Officer (ST),
Saligramam Assessment Circle,
Station Nos.15 & 16, 100 feet road,
Malligai Avenue,
Chennai-600 099.

2. The Assistant Commissioner (ST),
Saligramam Assessment Circle,
Station Nos.15 & 16, 100 feet road,
Malligai Avenue,
Chennai-600 099. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the 1st respondent passed in GSTIN/ID:33AAQPM1720R1ZA dated 28.02.2023 and consequential Form GST DRC-07 bearing Reference

No.ZD330223137009U dated 28.02.2023-December 2018 and quashing the same as void ab initio, without jurisdiction, arbitrary, and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India.

For Petitioner : Ms.P.Jayalakshmi

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

ORDER

An order in original dated 28.02.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. By asserting that the petitioner had entrusted GST compliances to a local auditor and that the petitioner was unaware of these proceedings until he received a letter dated 07.02.2024, the present writ petition was filed.

3. Learned counsel for the petitioner refers to the recovery notice dated 07.02.2024 and submits that the petitioner is an octogenarian and was unaware of these proceedings. She further submits that the petitioner's turnover is below the prescribed threshold for GST compliances. If provided

an opportunity, learned counsel submits that the petitioner would be in a position to establish that the tax proposal is liable to be dropped. On instructions, she submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondents. He points out that principles of natural justice were complied with by issuing intimation dated 18.07.2022, show cause notice dated 09.11.2022 and by offering a personal hearing by communication dated 16.11.2022.

5. On examining the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not respond to the show cause notice or appear at the personal hearing. Since the petitioner was not heard before the order was issued and the petitioner asserts that he was unaware of proceedings, the interest of justice warrants reconsideration albeit by putting the petitioner on terms.

6. For reasons set out above, the impugned order dated 28.02.2023 is

set aside on condition that the petitioner remits 10% of the disputed tax demand as agreed to within two weeks from the date of receipt of a copy of this order. Within such period, the petitioner is permitted to reply to the show cause notice. On receipt of such reply and on being satisfied that 10% 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 three months from the date of receipt of a copy of the petitioner's reply.

7. W.P.No.14978 of 2024 is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

18.06.2024

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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