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.14997 of 2024 and
W.M.P.Nos.16295 & 16297 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/33AAQPM1720R1ZA/2017-2018 dated 28.12.2022 and consequential Form GST DRC-07 bearing Reference

No.ZD3312221189430 dated 29.12.2022 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

In this matter, an order dated 28.02.2023 imposing interest for belated payment of taxes and belated filing of returns is challenged. The petitioner states that he is 84 years old and is engaged in leasing immovable property. Since the petitioner had entrusted GST compliances to a local auditor, he states that he was unaware of proceedings until he received recovery notice dated 07.02.2024.

2. Learned counsel for the petitioner submits that the petitioner may not cross the threshold for GST registration and compliances and that the petitioner would be in a position to persuade the respondents to drop proceedings if provided another opportunity. At any rate, she submits that the petitioner may be in a position to request that available credit in the

electronic credit ledger be used to defray the interest liability.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondents. He submits that the rate of interest is fixed by statute and that the assessing officer has no discretion in the matter.

4. On perusal of the impugned order, it is clear that the proposal for levy of interest was confirmed because the petitioner did not reply to the show cause notice. In view of the assertion that the petitioner could not participate on account of being unaware of proceedings, the interest of justice warrants that the petitioner be provided an opportunity to contest the interest liability on merits.

5. For reasons set out above, the impugned order dated 28.12.2022 is set aside and the matter is remanded for reconsideration. The petitioner is permitted to submit a reply to the show cause notice within a period of two weeks from the date of receipt of a copy of this order. Upon receipt thereof, 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.

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