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W.P.No.14841 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2024

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

Writ Petition No.14841 of 2024 and
W.M.P.Nos.16085 & 16088 of 2024

Tvl. Aarna Traders,
Represented by its Proprietrix,
V.Kavitha, No.35,
Vasavi nagar extension,
Udumalpet-642 126.

.. Petitioner

-VS-

The Deputy State Tax Officer II
Udumalpet (North) Circle,
Udumalpet.

... Respondent

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 Respondent in his proceedings in GSTIN 33ALDPK2692J1Z1/2018-2019 dated 29.04.2024 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan

For Respondent : Mr.T.N.C.Kaushik, Addl. Govt. Pleader (T)



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ORDER

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An order in original dated 29.04.2024 is challenged on the ground that the petitioner's reply was disregarded. Upon scrutiny of returns filed by the petitioner, show cause notice dated 20.01.2024 was issued to the petitioner regarding the mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. This was followed by two reminders each dated 11.03.2024. The second reminder called for a response on or before 15.03.2024. The petitioner replied on 15.03.2024. The impugned order was issued thereafter on 29.04.2024.

2. Learned counsel for the petitioner referred to the impugned order and pointed out that the reply was not considered by the proper officer because such reply was filed after four opportunities of personal hearing. On account of such non consideration, learned counsel submits that the impugned order cannot be sustained.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He points out that the petitioner has not



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replied on the factual issue raised in the show cause notice and has merely referred to case law.

4. The reminder dated 11.03.2024, which is labelled as reminder 3, calls for a response by 15.03.2024. The petitioner's reply dated 15.03.2024 is on record. In such reply, the petitioner has stated that the extent of mismatch is only Rs.1,03,176/- each towards CGST and SGST and not Rs.1,39,093/- each towards CGST and SGST. In addition, the petitioner has referred to judgments relating to such mismatch. In the impugned order, it is recorded as under, in relevant part:

“ Of late a Reply dated 15.03.2024 had been filed by the tax payer on completion of all four opportunities of personal hearings. However, the reply filed was not considered by the proper officer.”

5. From the above extract, it is clear that the respondent chose to disregard the reply because it was submitted after multiple reminders. Since the reply of the petitioner was disregarded, the order is liable to be set aside.



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6. Therefore, the impugned order dated 29.04.2024 is set aside and the matter is remanded for reconsideration. The petitioner is permitted to submit a reply to the show cause notice within 15 days from the date of receipt of a copy of this order. Upon receipt thereof, 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.

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

14.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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To

The Deputy State Tax Officer II
Udumalpet (North) Circle,
Udumalpet.

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SENTHILKUMAR RAMAMOORTHY,J

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