IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **14.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.14862 of 2024 and
W.M.P.No.16120 of 2024

Tvl. Raunaq Foundations,
Represented by its Partner,
Mr.Rochan Rungta,
S/o. Shri Sudarshan Kumar Rungta,
Aged 34 years, No.4, Kone Elevator,
Ayyanambakkam, Chennai-600 095
Now at:
Rungta House, 65A,
Halls Road, Kilpauk,
Chennai-600 010. .. Petitioner

-vs-

1. The Deputy Commissioner (ST),
GST-Appeal, Chennai-II,
PAPJM Annexe Building,
3rd floor, Greams Road,
Chennai-600 006.

2.The Assistant Commissioner (ST),
Nolambur Assessment Circle,
176B, MTH Road, Villivakkam,
Chennai-600 049. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records in the impugned order bearing Appeal Number and Year AP/GST/175/2020 dated 28.03.2023, on the file of the 1st Respondent and quash the same and further direct the 2nd Respondent to grant refund of the amount that stands appropriated against the demand raised by debiting the Electronic Credit ledger on 10.08.2023.

For Petitioner : Mr.I.Dinesh

For Respondents : Mr.C.Harsha Raj, Addl. Govt. Pleader (T)

ORDER

An appellate order dated 28.03.2023 is challenged on the ground that the petitioner was not heard before such order was issued. The petitioner had availed of transitional Input Tax Credit (ITC). Upon proceedings being initiated in respect thereof, an order dated 01.11.2019 was issued by the 2nd respondent herein. Such order was carried in appeal by the petitioner before the 1st respondent. The petitioner changed its additional place of business from 'Ayyanambakkam, Chennai-95' to an address at 'Halls Road, Kilpauk, Chennai-10' while the appeal was pending. In those circumstances, the petitioner states that hearing notices were not received and the petitioner could not participate in proceedings before the appellate authority.

2. Learned counsel for the petitioner submits that such change of address was communicated on 27.09.2023 and that the penalty of Rs.50,000/- was paid at that juncture. He further submits that the petitioner had remitted 10% of the disputed tax demand at the time of presentation of the appeal. After the appeal was dismissed ex parte, he submits that the GST Department has made debits from the petitioner's electronic credit ledger and that the total value of debits + amounts remitted by the petitioner as pre-deposit aggregate to about 37% of the disputed tax demand. In these circumstances, he makes a request that the matter be reconsidered.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondents. In view of the remittance of 10% of the disputed tax demand at the time of filing the appeal and the debits made from the petitioner's electronic credit ledger, he submits that the matter may

be remanded to the appellate authority for reconsideration.

4. Upon examining the materials on record and taking into account the fact that the appellate order was issued without the petitioner being heard, this is a fit case for remand to the appellate authority.

5. Accordingly, the impugned order dated 28.03.2023 is set aside and the matter is remanded to the appellate authority for reconsideration.

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

14.06.2024

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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