IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.14960 of 2024 and
W.M.P.Nos.16242, 16243 & 16244 of 2024

M.K.Senthilkumar Srinivasa Agencies
Represented by its Proprietor: Mr.K.Senthil Kumar
No.527, Gandhi Road,
Panruti,
Cuddalore 607 106. ... Petitioner

Versus

1. The Commercial Tax Officer,
   Panruti Town Assessment Circle:Cuddalore,
   Commercial Taxes Building,
   Old Kumbakonam Road,
   PANRUTI-607 106.

2. The Branch Manager,
   STATE BANK OF INDIA,
   No.3, Devanathan Street,
   Panruti,
   Cuddalore 607 106. ...Respondents

Prayer : A Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorarified Mandamus calling for the records in Reference Number:ZD330823185390D/2018-19 dt.31.08.2023 on the file of the 1st respondent and quash the same as contrary to law, consequently direct the 1st respondent to defreeze the bank attachment in

Reference No.GSTIN/33BYYPS9328G1Z1/2018-19 dt.16.04.2024 of the Petitioner-Registered Taxable Person.

For Petitioner : Mr. S.Ramanan

For Respondent : Mr. C.Harsha Raj,
Addl. Govt. Pleader for R1

ORDER

An order in original dated 31.08.2023 is assailed *inter alia* on the ground that principles of natural justice were breached.

2. By asserting that the person entrusted with GST compliances was unwell and therefore could not respond to the show cause notice, the present writ petition was filed.

3. The petitioner states that the rejection of input tax credit solely on the ground of belated filing of returns is untenable. Learned counsel for the petitioner submits that a sum of about Rs.16,000/- was debited from the electronic credit ledger of the petitioner and that the petitioner would make good the shortfall so as to remit 10% of the disputed tax demand.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing an intimation dated 20.02.2023, a show cause notice dated 05.06.2023 and by issuing three reminders.

5. On examining the impugned order, it is evident that the tax proposal was confirmed without hearing the petitioner. It also appears that the rejection of input tax credit was solely on the ground of belated filing of returns. In these facts and circumstances, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits.

6. For reasons set out above, subject to the petitioner remitting 10% of the disputed tax demand, in the aggregate, after giving credit to amounts realized by making debits from the electronic credit ledger of the petitioner, within two weeks from the date of receipt of a copy of this order, the impugned order dated 31.08.2023 is set aside. Within such period, the petitioner is also permitted to submit a reply to the show cause notice. On receipt thereof and on being satisfied that 10% of the disputed

tax demand was received, the 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 the petitioner's reply.

7. W.P.No.14960 of 2024 is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

14.06.2024

Index : Yes /No

Speaking Order : Yes /No

Neutral Case Citation : Yes /No

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To

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SENTHILKUMAR RAMAMOORTHY,J.

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