IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.15467 of 2024
and W.M.P.Nos.16813 & 16814 of 2024

Tvl. Tritech System,
Rep.by its Proprietor,
Abdul Mohammed Abdulla,
No.15, AP-941, 66th Street, 11th Sector,
K.K.Nagar, Chennai – 78. ... Petitioner

-vs-

The State Tax Officer,
Office of the Assistant Commissioner,
K.K.Nagar Assessment Circle,
PAPJM Annexure Building,
No.1 Greams Road, Chennai – 06. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records in 33AEAPA2299F1ZZ/2018-2019 dated 25.02.2023 on the file of the respondent and quash the same and consequentially direct the respondent to pass order as per law as the same is illegal, error of law and error on the face of record.

For Petitioner : Dr.Thiyagarajan, Sr. Advocate
for Mr.S.Ramesh Kumar

For Respondent : Mr.V.Prasanth Kiran, GA (T)

****

ORDER

An order in original dated 31.10.2023 is assailed on the ground that the petitioner's reply was not taken into consideration while arriving at the tax liability.

2. A show cause notice dated 11.04.2023 was issued to the petitioner. The petitioner replied on 09.10.2023 by attaching tables in which the petitioner endeavored to reconcile the mismatch between the GSTR 3B returns and the auto populated GSTR 2A. The order impugned herein was issued in those facts and circumstances.

3. Learned senior counsel for the petitioner referred to the reply

and pointed out that the petitioner had explained the mismatch by stating that the final difference is only Rs.10,546/- each towards CGST and SGST after taking into account the RCM adjustment. Although the reply was referred to in the impugned order, learned senior counsel points out that the reply was disregarded on the ground that it is vague and not trustworthy. In these circumstances, he contends that the petitioner should be provided another opportunity to explain the mismatch. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that the petitioner failed to submit any documents to reconcile the mismatch. In those circumstances, he submits that the assessing officer was constrained to confirm the tax proposal.

5. On examining the impugned order, it is evident that the petitioner's reply was construed as vague and not trustworthy because the petitioner failed to submit documents to reconcile the mismatch. However, the assessing officer did not take into consideration the RCM adjustment referred to by the petitioner. Therefore, re-consideration is warranted in the interest of justice by putting the petitioner on terms.

6. For reasons set out above, impugned order dated 31.10.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within ***fifteen days*** from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to submit an additional reply along with relevant documents. Upon 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.15467 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.16813 and 16814 of 2024 are closed.

21.06.2024

rna
Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

The State Tax Officer,
Office of the Assistant Commissioner,
K.K.Nagar Assessment Circle,
PAPJM Annexure Building,
No.1 Greams Road, Chennai – 06.

SENTHILKUMAR RAMAMOORTHY,J

rna

W.P.No.15467 of 2024
and W.M.P.Nos.16813 & 16814 of 2024

21.06.2024