IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.06.2024**

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15509 of 2024
and W.M.P.Nos.16860 & 16862 of 2024

Tvl.Samikannu Mariappan ... Petitioner

-vs-

1. The State Tax Officer (ST),
   Saligramam Assessment Circle,
   Station No.15&16, 100 feet Road,
   Malligai Avenue, Chennai-600 099.

2. The Assistant Commissioner (ST),
   Saligramam Assessment Circle,
   Station No.15 & 16, 100 feet Road,
   Malligai Avenue, Chennai-600 099. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the first respondent passed in Form GSTR 3A dated 15.12.2022 and consequential Form GST DRC-07 bearing Reference No. ZD331222054477K dated 15.12.2022 – October 2022 and quash 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	:	Mrs.P.Jayalakshmi
For Respondents	:	Mr.V.Prashanth Kiran, Government Advocate (Taxes)

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ORDER

An order in original dated 15.12.2022 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. By asserting that the petitioner had entrusted GST compliances to a local auditor and that the petitioner was unaware of these proceedings until he received a letter dated 07.02.2024, the present writ petition was filed.

3. Learned counsel for the petitioner refers to the recovery

notice dated 07.02.2024 and submits that the petitioner is an octogenarian and was unaware of these proceedings. She further submits that the petitioner's turnover is below the prescribed threshold for GST compliances. If provided an opportunity, learned counsel submits that the petitioner would be in a position to establish that the tax proposal is liable to be dropped. On instructions, she submit that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that principles of natural justice were complied with by issuing GSTR 3A notice dated 25.11.2022 for non-filing of returns.

5. On examining the impugned order, it is evident that the tax proposal was arrived at on best judgment basis because the petitioner did not respond to the notice or appear at the personal hearing. Since the petitioner was not heard before the order was issued and the petitioner asserts that he was unaware of

proceedings, the interest of justice warrants reconsideration albeit by putting the petitioner on terms.

6. For reasons set out above, the impugned order dated 15.12.2022 is set aside on condition that the petitioner remits 10% of the disputed tax demand within ***two weeks*** from the date of receipt of a copy of this order. Within such period, the petitioner is permitted to reply to the notice. On receipt of such reply and on being satisfied that 10% of the disputed tax demand was received, the first 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 a copy of the petitioner's reply.

7. W.P.No.15509 of 2024 is disposed of on the above terms

without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

21.06.2024
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Index : Yes /No
Speaking Order : Yes /No
Neutral Case Citation : Yes /No
rna

To

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SENTHILKUMAR RAMAMOORTHY,J.

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