IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **26.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.15795 of 2024
and W.M.P.Nos.17211 & 17212 of 2024

Tvl. Shanthi Metal Mart,
Represented by its Proprietor,
Mr.K.Chandrasekaran,
271, Mint street, Park Town,
Chennai-600 003. .. Petitioner

-vs-

The Deputy State Tax Officer-I,
Park Town Assessment Circle,
Station No.32, Integrated Commercial Taxes,
Office Complex, Room No.305,
3rd floor, Elephant Gate Bridge Road,
Chennai-600 003. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records pertaining to the impugned order dated 18.10.2023 issued in reference No.ZD3310231140292 by the respondent and quash the same.

For Petitioner : Mr.G.Derrick Sam

For Respondent : Mr.V.Prashanth Kiran, Govt. Adv. (T)

ORDER

An order in original dated 18.10.2023 is assailed on the ground of breach of principles of natural justice. Proceedings were initiated against the petitioner by show cause notice dated 20.06.2023 in relation to a mismatch between the petitioner's GSTR 3B returns and the GSTR 7 return filed by the recipient of services.

2. Learned counsel for the petitioner referred to invoices dated 09.08.2018 and 21.08.2018 and submitted that the supply was made in August 2018 and, consequently, was reflected in the GSTR 3B return for August 2018-2019. He further submits that the recipient of supply made payments belatedly on 11.10.2019 and thereafter reflected the transactions in the GSTR 7. After pointing that the mismatch arose on the above account, learned counsel points out that the entire tax liability was appropriated from the petitioner's bank account.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing notice in Form ASMT 10 dated 18.08.2020, show cause notice dated 20.06.2023 and by issuing notices for personal hearings. He confirms that the tax demand was realised from the petitioner's bank account.

4. On examining the impugned order, it is evident that the tax proposal was confirmed because the tax payer did not reply to the show cause notice. At this juncture, the entire tax demand has been realised. Since the petitioner was not heard before the tax proposal was confirmed and by taking into account the explanation provided by the petitioner, the interest of justice warrants reconsideration on merits.

5. For reasons set out above, the impugned order dated 18.10.2023 is set aside and the matter is remanded for reconsideration. The petitioner is permitted to submit a reply to the show cause notice within a period of two weeks from the date of receipt of a copy of this order. Upon receipt of the

petitioner's reply, 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. For the avoidance of doubt, it is made clear that amounts appropriated from the petitioner's bank account shall abide by the outcome of the remanded proceedings.

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

26.06.2024

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

To
The Deputy State Tax Officer-I,
Park Town Assessment Circle,
Station No.32, Integrated Commercial Taxes,
Office Complex, Room No.305,
3rd floor, Elephant Gate Bridge Road,
Chennai-600 003.

SENTHILKUMAR RAMAMOORTHY,J

kj

Writ Petition No.15795 of 2024
and W.M.P.Nos.17211 & 17212 of 2024

26.06.2024