IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.15919 of 2024
and W.M.P.Nos.17382 & 17383 of 2024

Nikhil Motichand Bhandari,
Proprietor of M/s.Jain Agri Agencies,
No.61/62B, Chennai Main Road,
Opp. Anandha Kalyana Mandapam,
Kalaignar Karunanidhi Street,
Villupuram - 605 602. ... Petitioner

-vs-

The Superintendent,
GST & Central Excise,
Villupuram Range, Villupuram Division,
Old Telephone Exchange Building,
BSNL Campus Hospital Road,
Villupuram-605 602. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the impugned proceedings of the respondent in Order-in-Original No.6/2024-GST(Supdt) dated 14.2.2024 in DIN No.20240259XL1100999C42 and quash the same as passed contrary to the provisions of the CGST Act, 2017 and TNGST Act, 2017 and IGST Act, 2017 and contrary to the principles of natural justice.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr. Sai Srujan Tayi,
Senior Standing Counsel

ORDER

An order in original dated 14.02.2024 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. Pursuant to show cause notice dated 12.09.2023, the impugned order was issued on 14.02.2024. The petitioner asserts that he was unaware of proceedings culminating in the impugned assessment order because all communications were uploaded on the GST portal and not communicated to the petitioner through any other mode.

2. Learned counsel for the petitioner submits that the petitioner could not participate in proceedings on account of being unaware of the same. Learned counsel, therefore, seeks an opportunity to contest the tax demand on

merits. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.Sai Srujan Tayi, learned senior standing counsel, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing intimation dated 29.08.2023, show cause notice dated 12.09.2023 and by issuing a personal hearing notice to the petitioner dated 19.10.2023.

4. On examining the impugned order, it is evident that the tax proposal related to a mismatch between the petitioner's GSTR 3B return and the auto-populated GSTR 2A. It is also clear that such proposal was confirmed because the tax payer did not file objections or avail of personal hearing opportunity. By taking into account the assertion that the petitioner could not participate in proceedings on account of being unaware of the same, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits by putting the petitioner on terms.

5. For reasons aforesaid, the impugned order dated 14.02.2024 is set aside on condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of two weeks from the date of receipt of a copy of this order. The petitioner is permitted to submit a reply to the show cause notice within the aforesaid period. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, the 1st 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.

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

01.07.2024

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

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To

The Superintendent,
GST & Central Excise,
Villupuram Range, Villupuram Division,
Old Telephone Exchange Building,
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SENTHILKUMAR RAMAMOORTHY,J

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