IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.15537 of 2024 and
W.M.P.Nos.16898 & 16900 of 2024

Tvl.Indu Housing Development (Chennai)
Private Limited, First Floor, Old No.T.67B,
New No.32, 32nd Cross Street, Besant Nagar,
Chennai-600 090,
Rep by its Managing Director Mr.S.P. Babu Vijay. .. Petitioner

-vs-

Assistant Commissioner (ST),
Kotturpuram Assessment Circle,
Room No.213, 2nd floor,
Integrated CT & R Building,
571, Anna salai, Nandanam,
Chennai-600 035. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned order bearing Reference No.ZD331223249595D dated 28/12/2023, passed by the Respondent, quash the same.

For Petitioner : Mr.T.R.Ramesh

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

ORDER

An order in original dated 28.12.2023 is assailed on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits. Pursuant to show cause notice dated 29.09.2023, the impugned order was issued on 28.12.2023. The petitioner asserts that he was unaware of proceedings and therefore could not participate in the same. It is further stated that the petitioner came to know of these proceedings recently.

2. Learned counsel for the petitioner submits that the tax proposal pertains to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. If provided an opportunity, learned counsel submits that the petitioner would be in a position to establish that only eligible Input Tax Credit (ITC) was claimed. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural

justice were complied with by issuing show cause notice dated 29.09.2023 and about three reminders for personal hearings.

4. On examining the impugned assessment order, it is evident that the tax proposal related to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. Such proposal was confirmed on account of the petitioner not filing the reply to the show cause notice. By taking into account the assertion that the petitioner could not participate in proceedings on account of being unaware of such proceedings, 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 set out above, the impugned order dated 28.12.2023 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 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. In view of the assessment order being set aside, the bank attachment is raised.

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

21.06.2024

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

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To

Assistant Commissioner (ST),
Kotturpuram Assessment Circle,

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SENTHILKUMAR RAMAMOORTHY,J

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