IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.15678 of 2024 and
W.M.P.Nos.17078 & 17079 of 2024

Amman Constructions,
Represented by its Partner Mr.Rajesh Kumar,
No.36, Vijay Chambers, 27th street,
Thillai Ganga Nagar, Inner Ring Road,
Chennai-600 061. .. Petitioner

-vs-

The Assistant Commissioner,
Nanganallur Assessment Circle,
South-III, Integrated Commercial Taxes and
Registration Department, (South Tower),
Room No.224, 2nd floor,
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 of the Respondent in Reference Number ZD3312232876195 / 2017-18 dated 31.12.2023 and quash the same as arbitrary, illegal.

For Petitioner : Mr.S.Ramanan

For Respondent : Mr.C.Harsha Raj, AGP (T)

ORDER

An order dated 31.12.2023 in respect of assessment period 2017-2018 is assailed only in so far as imposition of interest is concerned. Upon receipt of show cause notice dated 20.09.2023, the petitioner submitted reply dated 27.11.2023. The impugned order was issued thereafter.

2. Learned counsel for the petitioner submits that the tax proposal relates to a mismatch between the petitioner's GSTR 3B return and the GSTR 1 statement. As regards tax liability, he points out that the tax liability was discharged and this is recorded in the impugned order. He further submits that interest was levied by reckoning the period of delay in payment of tax as 2080 days, whereas, he contends that the period of delay is only 700 days. To that extent, he submits that reconsideration is necessary.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts

notice for the respondent. He points out that principles of natural justice were complied with by issuing intimation dated 07.09.2023, show cause notice dated 20.09.2023 and by offering a personal hearing to the petitioner. He also submits that there is no discretion with regard to interest liability.

4. The impugned order records that the tax payer paid the tax amount, but did so belatedly. Therefore, the only aspect that remains to be considered is with regard to interest. The contention of learned counsel for the petitioner is that taxes were paid with a delay of 700 days and not 2080 days. In these circumstances, subject to payment of interest to the extent admitted, it is necessary that the petitioner be provided an opportunity.

5. For reasons set out above, the impugned order dated 30.12.2023 is set aside only in so far as the interest liability is concerned subject to the petitioner discharging interest liability on the basis that the period of delay was 700 days instead of 2080 days. Such liability shall be discharged within 15 days from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to submit a reply to the show cause notice

only in so far as interest liability is concerned. Upon receipt of the petitioner's reply and on being satisfied that interest liability was discharged to the extent indicated above, 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.

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

24.06.2024

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

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To

The Assistant Commissioner,
Nanganallur Assessment Circle,
South-III, Integrated Commercial Taxes and
Registration Department, (South Tower),
Room No.224, 2nd floor,
Anna salai, Nandanam, Chennai-600 035.

SENTHILKUMAR RAMAMOORTHY,J

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