IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **26.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.15722 of 2024
and W.M.P.Nos.17137 & 17138 of 2024

Tvl. K.V.S Construction,
Represented by its Proprietor: P.Krishnan,
2/83C, Manivilundan South Pudur,
Manivilundan, Salem 636 121. ... Petitioner

-vs-

The Deputy State Tax Officer-1,
Attur Town Circle,
Attur 636 102. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the file of the respondent in GSTIN: 33AKHPK8860B1ZA/2021-22 dated 31.08.2023 and quash the same as illegal, invalid and against the principles of natural justice.

For Petitioner : Mr.A.Chandrasekaran

For Respondent : Mr.V.Prasanth Kiran, GA (T)

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ORDER

In this writ petition an order dated 31.08.2023 is challenged on the ground of breach of principles of natural justice. Pursuant to a notice in Form ASMT 10 dated 19.12.2020, show cause notice dated 09.02.2023 was issued to the petitioner. The impugned order came to be issued thereafter. The petitioner asserts that he was unaware of proceedings because the show cause notice and order were uploaded on the GST portal, but not communicated to the petitioner through any other mode.

2. Learned counsel for the petitioner submits that the petitioner became aware of these proceedings only upon the electronic credit ledger of the petitioner being debited on 18.03.2024. As against the consolidated tax liability of about Rs.59 lakhs in three assessment

periods, he submits that a sum of Rs.10,86,256/- was debited.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing intimation dated 13.04.2022, show cause notice dated 09.02.2023 and by offering a personal hearing by notice dated 14.11.2023.

4. On perusal of the impugned order, it is evident that the tax proposal pertained to the mismatch between the petitioner's GSTR 3B return and the GSTR 7 return filed by Government and local authorities. It is also clear that such tax proposal was confirmed because the petitioner did not file objections or appear at the personal hearing. By taking into account the assertion that the petitioner could not participate on account of being unaware of proceedings, the interest of justice warrants that an opportunity be provided to the petitioner to contest the tax demand on merits. It should be noted in this regard that a sum of Rs.10,86,256/- was debited from the

electronic credit ledger of the petitioner and this sum represents more than 10% of the disputed tax demand across the three relevant assessment periods.

5. For reasons aforesaid, impugned order dated 31.08.2023 is set aside subject to verification of the debit of Rs.10,86,256/-. In case such debit was not made, the petitioner is directed to remit 10% of the disputed tax demand. The petitioner is permitted to submit a reply to the show cause notice within ***fifteen days*** from the date of receipt of a copy of this order. Upon receipt thereof, the 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 the petitioner's reply.

6. W.P.No.15722 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.17137 and 17138 of 2024 are closed.

26.06.2024
(3/3)

rna
Index : No
Internet : Yes
Neutral Citation: No

To

The Deputy State Tax Officer-1,
Attur Town Circle,
Attur 636 102.

SENTHILKUMAR RAMAMOORTHY,J

rna

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