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.15683 of 2024 and
W.M.P.Nos.17084 & 17086 of 2024

Sri. C. Senthil Kumar .. Petitioner

-vs-

The State Tax Officer,
Rasipuram Circle,
2nd floor, Taluk Office Building,
Attur Main Road,
Annasalai, Rasipuram-637 408. ... 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 TN-GST/33ATJPS9460Q1ZP/2017-18 and quash the proceeding dated 12/12/2023 passed therein.

For Petitioner : Mr.B.Raveendran

For Respondent : Mrs.K.Vasanthamala, Govt. Adv. (T)

ORDER

An order in original dated 12.12.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that he was unaware of proceedings because the show cause notice and impugned order were uploaded in the portal and not communicated to the petitioner through any other mode. The present writ petition was filed in these circumstances.

2. Learned counsel for the petitioner submits that the tax proposal related to a mismatch between the petitioner's GSTR 3B return 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 availed of, including by complying with the requirement of Circular No.183. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mrs.K.Vasanthamala, learned Government Advocate, accepts

notice for the respondent. She submits that principles of natural justice were complied with by issuing intimation dated 05.06.2023, show cause notice dated 08.09.2023 and by issuing a personal hearing notice dated 14.11.2023.

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 set out above, the impugned order dated 12.12.2023 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.

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 State Tax Officer,
Rasipuram Circle,
2nd floor, Taluk Office Building,

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SENTHILKUMAR RAMAMOORTHY,J

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