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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **02.07.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16293 of 2024
and W.M.P.Nos.17830 & 17831 of 2024

Kayen Q Source,
Represented by its Proprietor Mr.M.Natarajan,
5/161, Govindammal Nagar,
Seelanaickenpatty, Salem,
Tamil Nadu-636201. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Annathanapatty Assessment Circle,
IV Floor, Integrated Commercial Taxes Building,
Pitchards Road, Hasthampatty, Salem-636 007. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the impugned order dated 29-12-2023 with the reference 33ADPPN0533M1ZD/2017-18 in the files of the respondent and quash the same.

For Petitioner : Mr.S.Ramamurthy

For Respondent : Mr. V.Prashanth Kiran, Govt. Adv. (T)

ORDER

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An order dated 29.12.2023 is challenged on the ground of breach of principles of natural justice. The petitioner asserts that the show cause notice and other communications were uploaded on the GST portal, but not communicated to the petitioner through any other mode. Consequently, the petitioner states that he was unaware of these proceedings until receipt of recovery notice dated 25.04.2024.

2. Learned counsel for the petitioner submits that the tax proposal relates to a mismatch between the petitioner's GSTR 1 and GSTR 3B returns. If provided an opportunity, he submits that the petitioner would be in a position to explain the mismatch. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing show cause notice dated 19.09.2023 and by

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offering a personal hearing to the petitioner.

4. On examining the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not reply to the show cause notice or submit relevant documents. 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 reconsideration, albeit by putting the petitioner on terms.

5. For reasons set out above, the impugned order dated 29.12.2023 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

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reply.

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

02.07.2024

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

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To

The Assistant Commissioner (ST),
Annathanapatty Assessment Circle,
IV Floor, Integrated Commercial Taxes Building,
Pitchards Road, Hasthampatty, Salem-636 007.

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