IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.15918 of 2024
and W.M.P.Nos.17378 & 17379 of 2024

M/s.Shabbir Sanitary Stores
Represented by its Partners,
No.5, Vanier Street, Broadway,
Chennai 600 001. ... Petitioner

-vs-

The Assistant Commissioner (ST)(FAC),
Harbour Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.327, Elephant Gate Bridge Road,
Chennai 600 003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of the respondent in order dated 26.12.2023 in GSTIN – 33ABVFS5990H1ZF/2017-18 and quash the same as illegal, arbitrary and in violation of principles of natural justice.

For Petitioner : Mrs.C.Rekha Kumari

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

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ORDER

An order in original dated 26.12.2023 is assailed in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that it was not possible to participate in proceedings because the petitioner was unaware of proceedings on account of the show cause notice and other communications being uploaded on the "view additional notices and orders" tab of the GST portal and not communicated to the petitioner through any other mode.

2. Learned counsel for the petitioner submits that the tax proposal arose out of an inadvertent error while filing GSTR 3B returns. She submits that the petitioner filled up the column relating

to inward supplies liable to reverse charge instead of the column relating to other ITC. On instructions, she submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing an intimation dated 26.05.2023, show cause notice dated 26.09.2023 and by issuing reminder dated 18.09.2023.

4. On examining the impugned order, it is evident that the tax proposal related to non payment of RCM. By taking into account the assertion that such tax proposal arose out of an inadvertent error as also the assertion that the petitioner could not participate in proceedings because the petitioner was unaware of such proceedings, the interest of justice warrants re-consideration by putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 26.12.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within ***two weeks*** 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. On receipt thereof and on 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. W.P.No.15918 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.17378 and 17379 of 2024 are closed.

27.06.2024

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

To

The Assistant Commissioner (ST)(FAC),
Harbour Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.327, Elephant Gate Bridge Road,
Chennai 600 003.

SENTHILKUMAR RAMAMOORTHY,J

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