IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.15791 of 2024 and
W.M.P.Nos.17205 & 17206 of 2024

M/s.Sri Visalam Traders,
Represented by its Proprietor,
No.42, Whites Road,
Royapettah, Chennai-600 014. .. Petitioner

-vs-

1. The Deputy State Tax Officer – 2,
Royapettah Assessment Circle,
Room No.206, second floor,
South Tower, Nandanam,
Chennai-600 035.

2.The Manager,
Canara Bank, P.B.No.3007, 207,
Purasawalkam High Road,
Chennai-600 007. ... Respondents

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 first respondent in his proceedings in GSTN:33AXOPS8813J1ZV/2017-18, quash the order dated 26.12.2023 passed therein.

For Petitioner : Mr.P.V.Sudakar

For R1 : Mr.C.Harsha Raj, AGP(T)

ORDER

The order in original dated 26.12.2023 is assailed in this writ petition on the ground of breach of principles of natural justice. By asserting that the petitioner was unaware of proceedings until the bank attachment notice because the show cause notice and other communications were uploaded in the "View Additional Notices and Orders" tab on the GST portal, but not communicated to the petitioner through any other mode, the present writ petition was filed.

2. Learned counsel for the petitioner submits that an inadvertent error was committed while filing the return in Form GSTR 3B for the month of August 2017-2018. In particular, he submits that the petitioner had filled up the inward supplies liable towards the reverse charge column instead of all other Input Tax Credit (ITC) column. If provided an opportunity, he submits that the petitioner would be in a position to establish that only eligible ITC was claimed. On instructions, he 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 1st respondent. He submits that principles of natural justice were complied with by issuing notice in Form ASMT 10 dated 10.08.2023, show cause notice dated 29.09.2023 and by offering a personal hearing.

4. The petitioner has placed on record a copy of the GSTR 3B return for August 2017-2018. Such return indicates entries in respect of inward supplies liable to reverse charge. On examining the impugned order, it is evident that the tax proposal relates to RCM purchases. In these circumstances, 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 26.12.2023 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 1st 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. In view of the assessment order being set aside, the bank attachment is raised.

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

25.06.2024

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

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To

The Deputy State Tax Officer – 2,

Royapettah Assessment Circle,
Room No.206, second floor,
South Tower, Nandanam,
Chennai-600 035.

SENTHILKUMAR RAMAMOORTHY,J

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