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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15736 of 2024 and
W.M.P.Nos.17147 & 17148 of 2024

Tvl.Dhali Channel Vadaboothinatham Village Water
Users Welfare Association,
Rep. By its President R.Venkatramani,
A-13, Venkatachallam Street, Gandhi Nagar,
Udumalpet-642 154. ... Petitioner

Versus

The State Tax Officer,
Udumalpet (North) Assessment Circle,
Udumalpet. ...Respondent

Prayer : A 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 his proceedings in GSTIN33AAFAD1665G1Z0/2019-20 dated 19.06.2023 and quash the same as illegal.

For Petitioner	:	Mr. S.Ramanathan
For Respondent	:	Mrs. K.Vasanthamala, Government Advocate (Taxes)

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ORDER

An order in original dated 19.06.2023 is assailed in this writ petition on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits.

2. The petitioner is engaged in works contract work for Government Departments. The petitioner asserts that he was not aware of the proceedings culminating in the impugned order until receipt of a notice dated 22.02.2024. He further states that he was unaware of proceedings because he had engaged part time accountant and did not have direct access to the portal

3. Learned counsel for the petitioner submits that the tax proposal relates to the mismatch between the petitioner's GSTR-3B returns and the auto-populated GSTR-2A as also between the GSTR-7 return filed by the recipient of service and the petitioner's GSTR 1 statement. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

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4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She points out that the impugned order was issued on 19.06.2023 and that the petitioner has approached the Court belatedly. In addition, she submits that principles of natural justice were complied with by issuing intimation dated 20.06.2022, show cause notice dated 29.08.2023 and multiple reminders.

5. On perusal of the impugned order, it is clear that the tax proposal was confirmed because the petitioner did not reply to the show cause. In view of the assertion that the petitioner could not reply on account of not being aware of proceedings, the interest of justice warrants that the petitioner be provided a reasonable opportunity to contest the tax demand on merits by putting the petitioner on terms.

6. For reasons aforesaid, the impugned order dated dated 19.06.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within fifteen days 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 of the petitioner's reply and on being

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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 fresh order within three months from the date of receipt of a copy of the petitioner's reply.

7. W.P.No.15736 of 2024 is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

24.06.2024

Index : Yes /No

Speaking Order : Yes /No

Neutral Case Citation : Yes /No

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To

The State Tax Officer,
Udumalpet (North) Assessment Circle,
Udumalpet.

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SENTHILKUMAR RAMAMOORTHY,J.

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