IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16071 of 2024
and W.M.P.Nos.17580 to 17582 of 2024

M/s.Movizzy Solutions Private Ltd.,
Represented by its Director Mr.A.Arulmurugan,
178, Eeva Nagar, 6th Street,
Cuddalore District – 607 105. ... Petitioner

-vs-

1. The Deputy State Tax Officer-I,
Panruti (Town) Assessment Circle,
Commercial Taxes Building (Near Taluk Office),
Panruti-607 106, Cuddalore District.

2.The State Tax Officer,
Panruti (Town).

3.M/s.Power2SME Private Ltd.,
Plot No.88, Udyog Vihar Phase 4,
Gurugram, Haryana -122 015. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the impugned proceedings of the first respondent in GSTIN 33AAMCM1580G1ZI dated 6.7.2023, and the summary of the order in Form GST DRC-07 dated 6.7.2023 in reference

No.ZD3307230211390 and quash the impugned orders as passed contrary to the provisions of the CGST/TNGST Act, 2017 and in violation of principles of natural justice.

For Petitioner : Mr.P.Rajkumar

For R1 & R2 : Mrs.K.Vasanthamala, Govt. Adv. (T)

ORDER

An order in original dated 06.07.2023 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 culminating in the impugned assessment order because all communications were uploaded on the GST portal and not communicated to the petitioner through any other mode.

2. Learned counsel for the petitioner submits that the confirmed tax proposal relates to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. If provided an opportunity, he submits that the petitioner would be in a position to explain the disparity. On instructions, he 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 respondents 1 & 2. She submits that principles of natural justice were complied with by issuing intimation dated 11.07.2022, show cause notice dated 28.07.2022 and by issuing about three personal hearing notices.

4. On examining the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not submit documents or reply to the show cause notice. In view of the assertion that the petitioner could not participate in proceedings on account of not being aware of the same, the interest of justice warrants reconsideration subject to putting the petitioner on terms.

5. Therefore, the impugned order dated 06.07.2023 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. On account of the assessment order being set aside, the garnishee proceedings are also set aside.

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

01.07.2024

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

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SENTHILKUMAR RAMAMOORTHY,J

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