IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.16017 of 2024 and
W.M.P.Nos.17497 & 17498 of 2024

Tvl. Universal Jet Enterprises,
Represented by its Partner Viswanathan,
No.45, Vellalore Road,
Singanallur, Coimbatore,
Tamil Nadu 641 005,
GSTIN:33AACFU7732P1ZP .. Petitioner

-vs-

The State Tax Officer,
Office of the Commercial Tax Officer,
Singanallur (South) Assessment Circle,
Coimbatore-18. ... Respondent

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 Respondent in the Impugned Order in GSTIN:33AACFU7732P1ZP/2017-18 dated 20.10.2023 along with Consequential Order vide Form GST DRC-07 with

Ref No.ZD331023128519N dated 20.10.2023 for the tax period July 2017 to March 2018 and quash the same.

For Petitioner : Mr.S.Kannan

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

ORDER

An order in original dated 20.10.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. By asserting that the petitioner had entrusted GST compliances to an auditor and that it was not possible to respond to the show cause notice on account of the ill-health of such auditor, the present writ petition was filed.

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 establish that only eligible Input

Tax Credit (ITC) was claimed. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing intimation dated 21.09.2023, show cause notice dated 28.09.2023 and personal hearing notice dated 05.10.2023.

4. On examining the impugned assessment order, it is evident that the tax proposal was confirmed because the petitioner did not reply to the show cause notice. By taking into account the assertion that the petitioner could not participate in proceedings on account of the accountant being unwell, the interest of justice warrants reconsideration by putting the petitioner on terms.

5. For reasons set out above, the impugned order dated 20.10.2023 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 reply.

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

27.06.2024

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

The State Tax Officer,
Office of the Commercial Tax Officer,
Singanallur (South) Assessment Circle,
Coimbatore-18.

SENTHILKUMAR RAMAMOORTHY,J

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