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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16245 of 2024
and W.M.P.Nos.17795 & 17799 of 2024

Tvl. JAS Tools & Services
Represented by its Proprietor
Mr.R.Arumugam,
No.61B, Sathiya Nagar,
Padi, Chennai – 600 050. ... Petitioner

-vs-

The Deputy State Tax Officer – I
Padi Assessment Circle
Station: Room No.416, 4th Floor,
Integrated Commercial Taxes Building,
T.S.No.2, Government Farm Village,
Nandanam, Chennai – 600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for records of the impugned order passed in GSTIN 33ADVPA5019K1ZH/2017-18 dated 13.12.2023 on the file of the respondent along with the

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consequential DRC-07 Order under Section 73, Ref.No. ZD3312231031728 dated 14.12.2023 on the file of the respondent and quash the same as illegal, arbitrary against the principles of natural justice and against the law.

For Petitioner : Mr.J.Poojesh

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

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ORDER

An order in original dated 13.12.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax proposal on merits. Pursuant to the scrutiny of the petitioner's returns, a notice in Form ASMT 10 dated 28.05.2022 was issued. This was followed by a show cause notice dated 19.09.2023. The petitioner asserts that the said show cause notice and other communications were uploaded on the "view additional notices and

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orders" tab on the GST portal and not communicated to the petitioner through any other mode. Consequently, the petitioner asserts that he was unaware of proceedings and could not participate.

2. Learned counsel for the petitioner submits that the confirmed tax proposal relates to a mismatch between the GSTR 1 and GSTR 3B returns. If provided an opportunity, he submits that the petitioner would explain the mismatch satisfactorily. On instructions, learned counsel for the petitioner 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 notice in Form ASMT 10 dated 28.05.2022, show cause notice dated 19.09.2023 and by offering a personal hearing.

4. On perusal of the impugned order, it is evident that the tax

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proposal was confirmed because the petitioner failed to respond to the show cause notice or appear for the personal hearing. By taking into account the assertion that the petitioner could not participate on account of not being aware of proceedings, it is just and necessary to provide an opportunity to the petitioner to contest the tax demand on merits by putting the petitioner on terms.

5. Therefore, impugned order dated 13.12.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand 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 said period. Upon 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 ***three months*** from the date of receipt of the petitioner's reply.

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6. W.P.No.16245 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.17795 and 17799 of 2024 are closed.

03.07.2024

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

To

The Deputy State Tax Officer – I
Padi Assessment Circle
Station: Room No.416, 4th Floor,
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SENTHILKUMAR RAMAMOORTHY,J

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