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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16631 of 2024
and W.M.P.No.18252 of 2024

M/s.Repco Micro Finance Limited
Represented by its Managing Director,
Mr.A.G.Venkatachalam
2nd Floor, 634, Karumuttu Centre North Wing,
Anna Salai, Nandanam, Chennai 600 035. ... Petitioner

-vs-

1.The Additional Commissioner,
Chennai North Commissionerate,
No.26/1, Mahatma Gandhi Road,
Chennai 600 034.

2.The Assistant Commissioner,
Nandanam, Chennai South
No.26/1, Mahatma Gandhi Road,
Chennai – 600 034. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of

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the impugned order in original No.12/2024-GST CH.N(ADC) dated 18.03.2024 having DIN: 20240359TK000000B187 passed by the 1st respondent and the summary of order in Form GST DRC-07 dated 01.04.2024 with reference No. ZD3304240000652Z issued by the 2nd respondent, and quash the same as it was passed in violation of statutory prescription and in violation of principles of natural justice.

For Petitioner : Mr.S.Anandh

For Respondents : Mr.B.Ramanakumar, Sr. SC

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ORDER

An order in original dated 18.03.2024 is challenged in this writ petition on the ground that the petitioner was not provided a reasonable opportunity to contest the tax proposal on merits.

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2. The petitioner received show cause notice dated 29.01.2024 in respect of the reconciliation statements in Form GSTR 9C for assessment periods 2018-19 and 2020-21. The petitioner replied to such show cause notice on 07.02.2024. In response to such reply, the first respondent requested for clarifications on 07.03.2024. Such clarifications were provided by the petitioner by a further reply dated 08.03.2024. The impugned order was issued in these facts and circumstances.

3. As regards financial year 2018-19, learned counsel contends that the alleged unreconciled taxable turnover pertained to the turnover of the Puducherry Unit of the petitioner. In spite of submitting a reply and enclosing the GST returns relating to Puducherry, he submits that the respondent concluded that the petitioner had not provided supporting documents to establish that the services were provided at Puducherry and not in the State of Tamil Nadu. With regard to financial year 2020-21, learned counsel submits that a moratorium was in place. In view of the uncertainty

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surrounding repayments by borrowers during the said period, he submits that a total amount of Rs.83.06 crores was reflected in the reconciliation statement. He also submits that the break up or bifurcation between the sum of Rs.23 crores, which was received as against the total accrual of Rs.83.06 crores, would have been provided if a clarification had been requested in such regard.

4. Mr.B.Ramanakumar, learned senior standing counsel, accepts notice for the respondents. He submits that the order in original is detailed and sets out reasons in support of the conclusions recorded therein. Consequently, he contends that no case is made out for interference under Article 226 because principles of natural justice were fully complied with.

5. The petitioner is a non banking financial institution. Consequently, the interest income of the petitioner is exempted

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under applicable GST statutes. Nonetheless, it is necessary for the petitioner to establish that the income is interest income. In this case, as regards assessment period 2018-19, the bone of contention is with regard to turnover attributed by the petitioner to the Puducherry Unit. The first respondent concluded that sufficient documents were not submitted to establish that such turnover is attributable to the Puducherry Unit and not to the Unit in the State of Tamil Nadu.

6. As regards assessment period 2020-21, in the show cause notice, the petitioner was called upon to show cause as to why the income of Rs.80,67,41,667/- was not taxable. The petitioner replied thereto by providing a break up of the unreconciled amount of Rs.80,63,40,950/-. In the impugned order, the first respondent concluded that the petitioner had failed to explain the unreconciled turnover on the basis that the petitioner had not properly reported the adjustment of a sum of Rs.23 Crores against receivables. This aspect was not raised in the show cause notice or in the subsequent request for clarifications. Nonetheless, it should be recognized that

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the petitioner was called upon to explain the total unreconciled turnover of Rs.80,63,40,950/- and, therefore, cannot be completely absolved of responsibility for not providing a proper clarification on this aspect. On instructions, learned counsel for the petitioner agrees that the petitioner would remit 10% of the disputed tax demand as a condition for re-consideration.

7. For reasons aforesaid, impugned order dated 18.03.2024 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 an additional reply along with supporting documents. Upon receipt of such additional reply and on being satisfied that 10% of the disputed tax demand was received, the first 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 additional reply from the petitioner.

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8. W.P.No.16631 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.No.18252 of 2024 is closed.

09.07.2024

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

To

1.The Additional Commissioner,
Chennai North Commissionerate,
No.26/1, Mahatma Gandhi Road, Chennai 600 034.

2.The Assistant Commissioner,
Nandanam, Chennai South
No.26/1, Mahatma Gandhi Road,
Chennai – 600 034.

<u>SENTHILKUMAR RAMAMOORTHY,J</u>

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