IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16484 of 2024 and
W.M.P.Nos.18050 & 18052 of 2024

Sri Ambal & Co.,
79E, Avinashi Road, Annur,
Coimbatore – 641 653,
Represented by its Managing Partner. ... Petitioner

-vs-

The Deputy State Tax Officer-I,
Office of the Deputy Commercial Tax Officer,
Annur Coimbatore – III,
Coimbatore-18. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the Respondent leading to issuance of Impugned Order dated 30.11.2023 vide GSTIN 33AAMFS8609M1ZL/2019-20 and quash the same and direct the Respondent to pass order after considering the reply to be filed by the Petitioner.

For Petitioner : Mr.S.Sathyanarayanan

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

ORDER

An order in original dated 30.11.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that the show cause notice and other communications were uploaded on the GST portal in the "View Additional Notices and Orders" tab, but not communicated to the petitioner through any other mode. On account of not being aware of such proceedings until recently, the present writ petition was filed.

2. Learned counsel for the petitioner submits that the tax proposal pertains 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 mismatch satisfactorily. On instructions, he 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 intimation dated 21.04.2023, show cause notice dated 30.06.2023 and by issuing about three reminders.

4. On examining the impugned order, it is evident that the tax proposal pertains to a mismatch between the petitioner's GSTR 3B return and the auto-populated GSTR 2A. Such tax proposal was confirmed in view of the petitioner's failure to reply to the show cause notice. By taking into account the assertion that such failure to reply was on account of not being aware of the show cause notice, the interest of justice warrants that an opportunity be provided to the petitioner to contest the tax demand on merits, albeit by putting the petitioner on terms.

5. For reasons set out above, the impugned order dated 30.11.2023 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.

08.07.2024

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

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To

The Deputy State Tax Officer-I,
Office of the Deputy Commercial Tax Officer,
Annur Coimbatore – III,
Coimbatore-18.

SENTHILKUMAR RAMAMOORTHY,J

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