IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 08.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16447 of 2024
and W.M.P.Nos.18000 & 18002 of 2024

Tvl. Parshwa Packaging Solutions,
Represented by its Proprietor,
Mr.Jayant Pandya (M/A 47 Yrs),
No.5/7, Chinna Naicken Street,
Sowcarpet, Chennai 079. ... Petitioner

-vs-

The Commercial Tax Officer,
Peddunaickenpet Assessment Circle,
Integrated Commercial Taxes Building,
Chennai 007. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the file of the respondent and to quash the impugned order dated 10.01.2023 bearing No. 33AKVPP2933N1ZG/2017-18 passed by the respondent and its consequential order dated 29.11.2023 in Form DRC 07 bearing reference No. ZD3311231810215 passed by the respondent as arbitrary.

For Petitioner : Mr.J.Ashish

For Respondent : Mrs.K.Vasanthamala, GA (T)

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ORDER

An order dated 10.01.2023 by which a late fee and penalty was imposed for belated filing of return is subject to challenge in this writ petition. Pursuant to show cause notice dated 11.01.2023, the order impugned herein was issued. The petitioner asserts that he was unaware of such order until a consequential order was issued later because the petitioner's GST registration had been cancelled.

2. Learned counsel for the petitioner submits that the show cause notice and other communications were merely uploaded on the GST portal and not communicated to the petitioner through any other mode. As a person whose registration had been cancelled, learned counsel submits that it was not possible to monitor the portal. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the late fee portion as a condition for remand.

3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She submits that principles of natural justice were complied with by issuing intimation dated 02.08.2022, show cause notice dated 11.01.2023 and by issuing a personal hearing notice dated 13.12.2023.

4. On perusal of the impugned order, it is evident that the late fee and penalty was imposed because the petitioner did not reply to

the show cause notice or attend the personal hearing. In these circumstances, albeit by putting the petitioner on terms, re-consideration is necessary by taking into account the assertion that the petitioner was unaware of proceedings.

5. For reasons aforesaid, impugned order dated 10.01.2023 is set aside on condition that the petitioner remits 10% of the late fee both in respect of CGST and SGST within ***fifteen days*** from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to reply to the show cause notice. Upon receipt thereof and on being satisfied that the amounts indicated above were remitted, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within ***two months*** from the date of receipt of the petitioner's reply.

6. W.P.No.16447 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.18000 and 18002 of 2024 are closed.

08.07.2024

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

To

The Commercial Tax Officer,
Peddunaickenpet Assessment Circle,
Integrated Commercial Taxes Building,
Chennai 007.

SENTHILKUMAR RAMAMOORTHY,J

rna

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