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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.16597 of 2024**
**and W.M.P.Nos.18202 & 18203 of 2024**

Sri AKB Silks
253/4 Second Agraharam,
Bazaar, Salem
Tamil Nadu 636 001. ... Petitioner

-vs-

The Commercial / State Tax Officer
Office of the Asst. Commissioner
Salem Bazaar Circle
Tamil Nadu. ... Respondent

**PRAYER**: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records in the file of the respondent and quash the order under Section 73 of the Tamil Nadu Goods and Services Tax Act, 2017 ("TNGST Act") dated 30.12.2023 having Reference Number ZD331223277071T along with



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Summary of the Order dated 30.12.2023 having Reference No. ZD331223277071T (Impugned Order) for the year 2017-18 passed by the respondent.

For Petitioner : Mr.NV.Narayanan

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

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**ORDER**

An order in original dated 30.12.2023 is challenged in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax proposal on merits. The petitioner asserts that he was unaware of proceedings culminating in the impugned order because the show cause notice and other communications were uploaded on the GST portal, but not communicated to the petitioner through any other mode.



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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. He submits that an error was committed while examining the GSTR 2A. If provided an opportunity, learned counsel submits that the petitioner would be in a position to establish that only eligible Input Tax Credit was claimed. On instructions, learned counsel submits that the petitioner agrees to remits 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 show cause notice dated 04.09.2023 and by offering a personal hearing to the petitioner.

4. On examining the impugned order, it is evident that the tax proposal was confirmed because the petitioner failed to reply to the



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show cause notice. By taking into account the assertion that such non participation was on account of not being aware of proceedings, it is just and appropriate to provide an opportunity to the petitioner to contest the tax demand on merits, albeit by putting the petitioner on terms.

5. Therefore, impugned order dated 30.12.2023 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 reply to the show cause notice. 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.

6. W.P.No.16597 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.18202 and 18203 of 2024 are closed.



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**09.07.2024**

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

**To**

The Commercial / State Tax Officer
Office of the Asst. Commissioner
Salem Bazaar Circle
Tamil Nadu.

**SENTHILKUMAR RAMAMOORTHY,J**

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