IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16288 of 2024
&
WMP Nos.17827, 17828 & 17829 of 2024

Sri Vinayaga Traders
Rep. by its Proprietor
A.Ramu,
S/o.Angappan,
No.11, Nanjappam Layout,
Eachanari Post,
Pollachi Road, Coimbatore 641 021. ... Petitioner

Versus

The State Tax Officer,
Kuniyamuthur Circle,
Coimbatore. ...Respondent

Prayer : A Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari to call for the records in GSTIN.33AFOPR5830E1ZD/2017-2018 dated 28.10.2023 on the file of the respondent herein and quash the same.

For Petitioner : Mr.R.Rajaramani

For Respondents : Mr.T.N.C.Kaushik
Addl. Govt. Pleader

ORDER

An order dated 28.10.2023 is challenged in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that he does not have knowledge of computer operations or GST compliances. Since the show cause notice and other communications were uploaded on the GST portal and not communicated to the petitioner through any other mode, the petitioner states that he was unaware of proceedings and, therefore, could not participate in the same.

3. Learned counsel for the petitioner submits that the tax proposal relates to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GRSR 2A. If provided an opportunity, he submits that the petitioner would be in a position to establish that only eligible input tax credit was claimed. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing intimation dated 06.09.2023, show cause notice dated 18.09.2023 and by issuing personal hearing notices.

5. On examining the impugned order, it is evident that the tax proposal, which related to a mismatch between the petitioner's

GSTR 3B returns and the auto-populated GSTR 2A, was confirmed because the petitioner did not reply to the show cause notice. By taking into account the assertion that the petitioner is computer illiterate and could not participate on account of being unaware of proceedings, the interest of justice warrants reconsideration by putting the petitioner on terms.

6. Therefore, the impugned order dated 28.10.2023 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 directed to submit a reply to the show cause notice. On receipt of the petitioner's reply 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. In view of the assessment order being set aside, the bank attachment is raised.

7. W.P.No.16288 of 2024 is disposed of on the above terms. Consequently, WMP Nos.WMP Nos.17827, 17828 & 17829 of 2024 are closed. No costs.

02.07.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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SENTHILKUMAR RAMAMOORTHY,J

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To

The State Tax Officer,
Kuniyamuthur Circle,
Coimbatore.

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