IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16405 of 2024
and W.M.P.Nos.17965 & 17967 of 2024

M/s.Peritus Solutions Private Limited
Represented by its Director,
No.12, 2nd Floor, Second Street,
Sri Sakthi Vijayalakshmi Nagar,
Off 100 Feet Bypass Road,
Velachery, Chennai 600 042. ... Petitioner

-vs-

The Commercial Tax Officer,
Velachery Assessment Circle,
Integrated Building of Commercial Taxes and
Registration Department,
Farnpet, Chennai 600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in the impugned order Reference No.

ZD3312232512404 dated 28.12.2023, quash the same as against the principles of natural justice and direct the respondent to allow the demand amount in monthly installments as per Section 80 of the CGST Act, 2017 in accordance with law.

For Petitioner : Mr.K.Thyagarajan

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

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ORDER

An order in original dated 28.12.2023 is assailed by the petitioner on the ground that a reasonable opportunity to contest the tax demand on merits was not provided. The petitioner asserts that it was unaware of proceedings culminating in the impugned order because the show cause notice and other communications were uploaded on the GST portal and not communicated to the petitioner through any other mode.

2. Learned counsel for the petitioner submits that the tax proposal relates to a mismatch between the petitioner's GSTR 1 and GSTR 3B returns. He also submits that the petitioner was unaware of proceedings on account of the GST registration of the petitioner being cancelled. He further submits that notice in Form ASMT 10 was not issued although the proceedings relate to a discrepancy between the returns of the petitioner. Without prejudice, on instructions, learned counsel 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 19.09.2023, show cause notice dated 30.09.2023 and by offering a personal hearing.

4. On examining the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not reply to the

show cause notice or attend the personal hearing. In view of the assertion that such non participation was on account of not being aware of proceedings, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits by putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 28.12.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within ***three weeks*** 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.16405 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.17965 and 17967 of 2024 are closed.

08.07.2024

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

To

The Commercial Tax Officer,
Velachery Assessment Circle,
Integrated Building of Commercial Taxes and
Registration Department,
Farnpet, Chennai 600 035.

SENTHILKUMAR RAMAMOORTHY,J

rna

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