IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12.07.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17034 of 2024 and
W.M.P.Nos.18778 & 18779 of 2024

Tvl. AS Transport,
Represented by its Proprietor,
S.Balamurugan, No.111,
Kummalamman Kovil Street,
Tondiarpet, Chennai-600 081. ... Petitioner

-vs-

The State Tax Officer,
Harbour Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.312, 3rd floor,
Elephant Gate Bridge Road,
Vepery, Chennai-600 003. ... 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 in GSTIN/33AITPB5491K2ZU/ 2017-2018 dated 27.12.2023 and quash the same and consequently direct the respondent to give an opportunity of personal hearing.

For Petitioner : Mr.P.R.Kumar

For Respondent : Mr.G.Nanmaran, Spl. G.P.

ORDER

An order dated 27.12.2023 is assailed 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 portal, but not served on the petitioner through any other mode. In view of not being aware of proceedings, it is stated that the petitioner could not participate in the same.

2. Learned counsel for the petitioner submits that the petitioner remitted 10% of the disputed tax demand on 07.06.2024. On account of the petitioner not having participated in proceedings earlier, he seeks another opportunity.

3. Mr.G.Nanmaran, learned Special Government Pleader, accepts

notice for the respondent. He submits that principles of natural justice were complied with by issuing notice in Form ASMT 10 dated 25.04.2023 and show cause notice dated 26.09.2023 and reminder dated 30.10.2023.

4. On perusal of the impugned order, it is clear that the tax proposal related to a mismatch between the petitioner's GSTR 3B returns and the GSTR 1 return. It also appears that the respondent concluded that excess Input Tax Credit (ITC) was availed. Such conclusions were drawn because the petitioner failed to reply to the show cause notice. By taking into account the assertion that non participation was on account of not being aware of proceedings, the interest of justice warrants reconsideration. In this regard, it should be noticed that the petitioner remitted 10% of the disputed tax demand on 07.06.2024.

5. Therefore, the impugned order dated 27.12.2023 is set aside and the matter is remanded for reconsideration. The petitioner is permitted to submit a reply to the show cause notice within 15 days from the date of receipt of a copy of this order. Upon receipt thereof, 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.

12.07.2024

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

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To

The State Tax Officer,
Harbour Assessment Circle,
Integrated Commercial Taxes Office Complex,
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SENTHILKUMAR RAMAMOORTHY,J

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