IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **11.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16797 of 2024
and W.M.P.Nos.18469 & 18470 of 2024

M/s.Venkateswara Plastic Industries
Represented by its Proprietor Mr.Bansilal Sharma Udainarayan,
No.19/33, Melpatti Ponappan Mudali Street,
Vysarpadi, Chennai 600039. ... Petitioner

-vs-

The Assistant Commissioner (ST)
Villivakkam Assessment Circle,
No.15 & 16, 100' Feet Road, Malligai Avenue,
Chennai 600 099. ... 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 of the respondent in order dated 13.12.2023 in GSTIN

33AAAPU2038A1ZC/2017-18 and consequential order dated 04.04.2024 in Reference No: ZD330424039474I and quash the same as illegal, arbitrary and in violation of principles of natural justice.

For Petitioner : Ms.C.Rekhakumari

For Respondent : Mr.V.Prasanth Kiran, GA (T)

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ORDER

An order in original dated 13.12.2023 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 and, therefore, could not participate in such proceedings.

2. Learned counsel for the petitioner submits that the confirmed

tax proposal pertains to the disparity between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. She submits that the petitioner obtained all necessary documents in terms of Circular No.183 and filed a rectification petition on 11.03.2024. Such rectification petition was rejected by order dated 04.04.2024. If provided an opportunity, learned counsel submits that the petitioner would be in a position to establish that only eligible ITC was claimed. On instructions, learned counsel submits that the petitioner agrees to remit a sum of Rs.25,000/- towards the disputed tax demand as a condition for remand.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that principles of natural justice were complied with by not only uploading the show cause notice and personal hearing notice on the GST portal, but also by communicating the same to the registered e-mail ID of the petitioner and by sending a text message to the registered mobile

number.

4. The petitioner has placed on record the declaration issued by the supplier in terms of Circular No.183. The rectification petition was rejected in view of the limited scope of rectification under Section 161 of the applicable GST statutes. In the affidavit, the petitioner asserts that non participation was on account of not being aware of proceedings. The petitioner has offered to remit a sum of Rs.25,000/- towards the disputed tax demand and this is in excess of 10% of the disputed tax demand. These facts and circumstances justify re-consideration.

5. For reasons set out above, the order in original dated 13.12.2023 is set aside on condition that the petitioner remits a sum of Rs.25,000/- towards the disputed tax demand, as agreed to, within ***fifteen days*** from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to submit a reply to the

show cause notice. Upon receipt thereof and on being satisfied that a sum of Rs.25,000/- 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.16797 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.18469 and 18470 of 2024 are closed.

11.07.2024

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

To

The Assistant Commissioner (ST)
Villivakkam Assessment Circle,
No.15 & 16, 100' Feet Road, Malligai Avenue,
Chennai 600 099.

SENTHILKUMAR RAMAMOORTHY,J

rna

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