IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 23.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17584 of 2024
and W.M.P.Nos.19369 & 20038 of 2024

Sri Dharshinee Power Controls
Rep by its Proprietor, V.Rajesh
No.61, Poonamallee Road,
Ekkatuthangal, Chennai 600 097. ... Petitioner

-vs-

The Deputy State Tax Officer – I,
Ekkatuthangal Assessment Circle,
Commercial Taxes and Reg. Department,
Block No.19, T.S.No.02, 3rd floor,
Govt. Farm Village, Room No.306,
Nandanam, Chennai – 600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the impugned order of the respondent passed in GSTIN: 33ALFPR6016F1ZB / 2018-

19 dated 21.03.2024 and quash the same.

For Petitioner : Mr.Sai Tanya Kesan

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

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ORDER

An order in original dated 21.03.2024 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that a consultant was engaged on part time basis to handle GST compliances. Since the show cause notice and other communications were uploaded on the "view additional notices and orders" tab in the GST portal, it is stated that the petitioner was unaware of proceedings until recently.

2. Learned counsel for the petitioner submits that the petitioner

could not participate in proceedings on account of being unaware of such proceedings. She submits that the petitioner would be in a position to establish that outward supply was duly reported in the annual return and that only eligible Input Tax Credit was claimed, if provided an opportunity. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that principles of natural justice were complied with by issuing show cause notice dated 28.12.2023 and by issuing three reminders for a personal hearing. He also points out that all communications from January 2024 were not uploaded in the "view additional notices and orders" tab.

4. On examining the impugned order, it is evident that the tax

proposals dealt with therein were confirmed because the tax payer neither replied to the show cause notice nor requested for an adjournment. In view of the assertion that such non participation was on account of not being aware of proceedings, the interest of justice warrants re-consideration subject to putting the petitioner on terms.

5. Therefore, impugned order dated 21.03.2024 is set aside on condition that the petitioner remits 10% of 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 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.

6. W.P.No.17584 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19369 and 20038 of 2024 are closed.

23.07.2024

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

To

The Deputy State Tax Officer – I,
Ekkatuthangal Assessment Circle,
Commercial Taxes and Reg. Department,
Block No.19, T.S.No.02, 3rd floor,
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SENTHILKUMAR RAMAMOORTHY,J

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