IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16715 of 2024
and W.M.P.Nos.18355 & 18356 of 2024

M/s.Rohit Marketing,
Represented by its Managing Partner,
Mr.Prabahara Sathyaraj (M/A 54 yrs),
No.4B, Sri Devi Karumariaamman Nagar,
Mel Ayanambakkam, Chennai 095. ... Petitioner

-vs-

The Assistant Commissioner (ST)(FAC),
Nolambur Assessment Circle, Chennai. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the file of the respondent and to quash the impugned order dated 22.12.2023 bearing GSTIN No. 33AARFR1037K1Z1/2017-18 passed by the respondent as arbitrary.

For Petitioner : Mr.J.Ashish

For Respondent : Mrs.K.Vasanthamala, GA (T)

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ORDER

An order in original dated 22.12.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner states that he discontinued his business of manufacturing switches and household articles. He further states that he was unaware of proceedings culminating in the impugned order until he received a phone call on 23.05.2024. The present writ petition was filed on the said facts and circumstances.

2. Learned counsel for the petitioner submits that no personal hearing was offered and therefore sub-section (4) of Section 75 of applicable GST statutes was contravened. He seeks another opportunity to contest the tax demand on merits. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax

demand as a condition for remand.

3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She submits that principles of natural justice were complied with by issuing show cause notice dated 15.09.2023 and by offering a personal hearing on 18.12.2023.

4. On examining the impugned order, it is evident that the tax proposal related to a mismatch between the petitioner's GSTR 3B and GSTR 1 returns. Such tax proposal was confirmed because no objections were received from the tax payer. In view of the assertion that such non participation was on account of the petitioner discontinuing business and not monitoring the GST portal, the interest of justice warrants that an opportunity be provided to the petitioner by putting the petitioner on terms.

5. For reasons aforesaid, impugned assessment order dated 22.12.2023 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 assessment order within ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.No.16715 of 2024 is disposed on the above terms. No costs. Consequently, W.M.P.Nos.18355 and 18356 of 2024 are closed.

10.07.2024

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

To

The Assistant Commissioner (ST)(FAC),
Nolambur Assessment Circle,
Chennai.

<u>SENTHILKUMAR RAMAMOORTHY,J</u>

rna

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