IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **11.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16799 of 2024
and W.M.P.Nos.18473 & 18476 of 2024

M/s.SARF Trading
Rep. By its Proprietor Mr.Mohammed Rafi Sait
1st Floor, No.171/172, Family Shopping Complex,
Medavakkam Tank Road, Kilpauk,
Chennai 600 010. ... Petitioner

-vs-

The Deputy State Tax Officer-1,
Purasawakkam Assessment Circle,
F/50, 1st Floor, First Avenue,
Anna Nagar (East),
Chennai 600 102. ... 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 relating to the order in Reference No. ZD331223266942F in GSTIN /

ID: 33ATRPR1872P1ZS/2017-18 dated 28.12.2023 passed by the respondent and to quash the same as opposed to principles of natural justice, unsustainable in law, arbitrary.

For Petitioner : Mr.M.A.Muddimannan

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

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ORDER

An order in original dated 28.12.2023 is challenged in this writ petition on the ground of breach of principles of natural justice. The petitioner asserts that the show cause notice and other communications were uploaded on the GST portal but not communicated to the petitioner through any other modes prescribed in Section 169 of the applicable GST enactments. On account of being unaware of proceedings, the petitioner states that he could not participate in the same.

2. Learned counsel for the petitioner submits that the impugned order was not preceded by a notice in Form ASMT 10 although the proceedings were based on a scrutiny of returns. He further submits that the confirmed tax proposal pertains to the mismatch between the petitioner's GSTR 1 and GSTR 3B returns. If provided an opportunity, he submits that the petitioner would be able to explain the mismatch satisfactorily. Without prejudice, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

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 show cause notice dated 07.09.2023 and by offering a personal hearing by notices dated 07.10.2023, 24.12.2023 and 27.12.2023.

4. On perusal of the impugned order, it is evident that the tax proposal was confirmed solely on the ground that the petitioner did not reply to the show cause notice. By taking into account the assertion that the petitioner could not participate on account of not being aware of proceedings, it is just and necessary to provide an opportunity to the petitioner to contest the tax demand on merits by putting the petitioner on terms.

5. For reasons set out above, impugned order dated 28.12.2023 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 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.16799 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.18473 and 18476 of 2024 are closed.

11.07.2024

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

To

The Deputy State Tax Officer-1,
Purasawakkam Assessment Circle,
F/50, 1st Floor, First Avenue,
Anna Nagar (East),
Chennai 600 102.

SENTHILKUMAR RAMAMOORTHY,J

rna

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