IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **15.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.No.17075 of 2024**
**and W.M.P.Nos.18823 & 18825 of 2024**

Tvl. K.Subramani Works Contractor
Represented by its Proprietor K.Subramani
No.15, Hemchandra Nagar, Minjur,
Ponneri Taluk, Tiruvallur Dist – 601 203. ... Petitioner

-vs-

The State Tax Officer,
Cholavaram Assessment Circle,
Room No.108, 1st Floor,
Integrated C.T.Buildings,
Chennai – 600 003. ... 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 / 33ALEPS8907K1ZO / 2017-18 dated 31.12.2023 and quash the same.

For Petitioner : Mr.N.Murali

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

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**ORDER**

An order in original dated 31.12.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. Upon an audit of the books of account of the petitioner for financial years 2017-18 to 2021-22, the petitioner responded to the audit observations relating to financial year 2017-18. Thereafter, show cause notice dated 23.09.2023 was issued to the petitioner. Since the petitioner had submitted documents in response to the audit observations, by reply dated 08.11.2023, the petitioner informed the respondent that the documents mentioned in such reply had been submitted in course of audit. The impugned order was issued in these facts and circumstances.

2. Learned counsel for the petitioner submits that the petitioner

was unable to provide a detailed reply since the documents had already been provided for purposes of audit. He seeks an opportunity to contest the tax proposal on merits. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that the impugned order was issued in compliance of principles of natural justice after issuing show cause notice dated 23.09.2023 and by offering a personal hearing by notices dated 20.11.2023 and 14.12.2023.

4. On perusal of the impugned order, it is clear that every tax proposal dealt with therein was confirmed because the tax payer had not filed a reply. The petitioner's reply to the show cause notice is on record and the petitioner referred therein to documents submitted earlier in course of audit. It is noticeable that the petitioner did not, however, show cause in respect of the tax proposal. Nonetheless,

since the impugned order was issued without taking such documents into account, re-consideration is necessary by putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 31.12.2023 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 and submit all relevant documents. 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.17075 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.18823 and 18825 of 2024 are closed.

**15.07.2024**

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

**To**

The State Tax Officer,
Cholavaram Assessment Circle,
Room No.108, 1st Floor,
Integrated C.T.Buildings,
Chennai – 600 003.

**SENTHILKUMAR RAMAMOORTHY,J**

rna

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