IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16687 of 2024
and W.M.P.Nos.18327 & 18328 of 2024

Five Fingers Exports
Represented by its Managing Partner,
Mr.Ananth, 448, Vellalore Road,
Singanallur, Coimbatore,
Tamil Nadu, India, 641 005. ... Petitioner

-vs-

The Commercial Tax Officer,
Singanallur South Circle,
Coimbatore-641 018. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the Respondent in the Impugned order in GSTIN : 33AADFF2207P1ZJ/2017-2018 dated 05.12.2023 along with Consequential Order vide Form GST DRC-07 with Ref. No. ZD331223024778G dated 05.12.2023 for the tax period July 2017 to March 2018 and quash the same.

For Petitioner : Mr.T.V.Suresh Kumar
for M/s.Genicon Legal

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

ORDER

An order in original dated 05.12.2023 is challenged on the ground of breach of principles of natural justice.

2. The petitioner asserts that GST compliances were entrusted to an accountant. Since the show cause notice and other communications were uploaded on the GST portal but not served by post on the petitioner, it is stated that the petitioner was unaware of proceeding and, consequently, could not participate in the same.

3. Learned counsel for the petitioner submits that the confirmed tax proposal pertains to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. He further submits that such mismatch occurred on account of the IGST component not being reflected in the GSTR 2A. If provided an opportunity, he submits that the petitioner would be in a position to establish that only eligible Input Tax Credit (ITC) was

claimed. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.G.Nanmaran, learned Special Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing intimation dated 21.09.2023, show cause notice dated 28.09.2023 and by sending a personal hearing notice.

5. On perusal of the impugned order, it is evident that the tax proposal, which pertains to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A, was confirmed because the petitioner failed to reply to the show cause notice. By taking into account the contention that such mismatch was solely on account of the IGST component not being reflected in the GSTR 2A and the assertion that the petitioner could not participate in proceedings on account of being unaware of the same, the interest of justice warrants reconsideration by putting the petitioner on terms.

6. For reasons set out above, the impugned order dated 05.12.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of two weeks from the date of receipt of a copy of this order. The petitioner is permitted to submit a reply to the show cause notice within the aforesaid period. Upon receipt of the petitioner's reply and upon 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 a period of three months from the date of receipt of the petitioner's reply.

7. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

09.07.2024

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

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SENTHILKUMAR RAMAMOORTHY,J

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To

The Commercial Tax Officer,
Singanallur South Circle,
Coimbatore-641 018.

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