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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.17604 of 2024 and
W.M.P.Nos.19934, 19935 & 19936 of 2024

Tvl. Anitha Constructions,
Rep. By its Anitha Deel
Sea Ward Road,
H 97/S1, Valmiki Nagar,
Thiruvanmiyur,
Chennai-600 041. ... Petitioner

Versus

The Deputy Tax Officer (ST),
Thiruvanmiur Assessment Circle,
Integrated Registration and Commercial Taxes Building,
Nandanam,
Chennai-600 035. ... Respondent

Prayer : A Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorarified Mandamus, to call for the records leading to the issuance of proceedings with order in GSTIN:33ARZPA3542R2Z5/2017-18 along with Form DRC-07 dated 12.12.2023, by the respondent herein and quash the same, and direct the respondent herein to consider the ITC involved in mismatch in

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GST number by the supplier invoices, with a direction that the bona fide error and subsequently which is to consider and re-assess the case after giving full and fair opportunity to the petitioner.

For Petitioner	:	Mr.N.Desinghu
For Respondent	:	Mrs.K.Vasanthamala Govt. Advocate

ORDER

In this writ petition, an assessment order is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that he was unaware of proceedings culminating in the order impugned herein because such order was uploaded on the GST portal and not communicated to the petitioner through any other mode.

3. Learned counsel for the petitioner submits that the tax

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proposal related to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. If provided an opportunity, he submits that the petitioner would be in a position to explain the mismatch satisfactorily. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4.Mrs.K.Vasanthamala, accepts notice for the respondent. She submits that principles of natural justice were complied with by issuing notice in Form ASMT-10 dated 09.08.2023, intimation dated 20.09.2023, show cause notice dated 27.09.2023 and by offering a personal hearing on 16.10.2023..

5. On perusal of the impugned order, it is clear that the tax proposal was confirmed on account of the fact that the petitioner did not reply to the show cause notice or participate in the personal hearing. By taking note of the assertion that such non-participation was on account of being unaware of proceedings, the interest of

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justice warrants reconsideration subject to putting the petitioner on terms.

6. Therefore, the impugned order dated 12.12.2023 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. In view of the assessment order being set aside, the bank attachment is raised.

7. W.P.No.17604 of 2024 is disposed of on the above terms. Consequently, W.M.P.Nos.19934, 19935 & 19936 of 2024 are closed. No costs.

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Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes/ No

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To

The Deputy Tax Officer (ST),
Thiruvanmiur Assessment Circle,
Integrated Registration and Commercial Taxes Building,
Nandanam,
Chennai-600 035.

SENTHILKUMAR RAMAMOORTHY J.

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