IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16954 of 2024
&
WMP Nos.18665 & 18666 of 2024

M/s.Sri Jayanti Natha Super Market
Represented by its Proprietrix Chellathai Perumalsamy,
No.27, MMTC Colony Main Road,
Naganallur,
Chennai-600 061. ... Petitioner

Versus

State Tax Officer
Nanganallur Assessment Circle
Integrated Commercial Taxes Building
Room No.224, 2nd Floor, Anna Salai,
Nandanam, Chennai-600 035. ...Respondent

Prayer : A 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 impugned order bearing GSTIN

33CNWPP0584P1Z0/2017-2018 dated 13.12.2023 passed by the Respondent and quash the same.

For Petitioner : Mr.K.Adhishankaran

For Respondents : Mrs.K.Vasanthamala
Govt. Advocate

ORDER

An order in original dated 13.12.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. By asserting that the show cause notice and the impugned order were uploaded on the GST portal but not communicated to the petitioner through any other mode, the petitioner has filed the writ petition. In the affidavit, the petitioner states that she came to know about the impugned order only in the last week of April 2024 when an officer of the GST Department called upon the

petitioner to make payment.

3. Learned counsel for the petitioner submits that the tax proposal pertains 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. 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, learned Government Advocate, accepts notice for the respondent. She submits that notice in Form ASMT 10 was issued to the petitioner upon noticing discrepancies in the returns filed by the petitioner. Such notice was replied to by the petitioner in May 2023. Consequently, she submits that it is not open to the petitioner to contend that she was unaware of these proceedings. She also submits that principles of natural justice

were complied with by issuing intimation dated 14.07.2023, show cause notice dated 24.09.2023 and by issuing reminders for personal hearing.

5. On perusal of the impugned order, it is evident that the tax proposal relates to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. It is also clear that such proposal was confirmed because the petitioner failed to reply to the show cause notice. In view of the assertion that the petitioner could not respond on account of being unaware of proceedings, the interest of justice warrants reconsideration by putting the petitioner on terms.

6. Therefore, the impugned order dated 13.12.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand 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 a copy of the petitioner's reply.

7. W.P.No.16954 of 2024 is disposed of on the above terms. Consequently, WMP Nos.18665 & 18666 of 2024 are closed. No costs.

28.06.2024

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

SENTHILKUMAR RAMAMOORTHY,J

kal

To

State Tax Officer

Nanganallur Assessment Circle
Integrated Commercial Taxes Building
Room No.224, 2nd Floor, Anna Salai,
Nandanam, Chennai-600 035.

W.P.No.16954 of 2024
&
WMP Nos.18665 & 18666 of 2024

28.06.2024