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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **16.07.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17318 of 2024 and
W.M.P.Nos.19099 & 19101 of 2024

M/s.Madeena Trade Point,
Represented by its Proprietor,
Mr.P.I.Fayaz Ahamed,
No.GC 25, Koyambedu Food Grain Market Complex,
Koyambedu, Chennai-600 092. ... Petitioner

-vs-

The Deputy State Tax Officer-2,
Koyambedu Assessment Circle,
4/209, Bangalore Chennai Highway,
Varadharajapuram, Nazarathpet,
Chennai-600 123. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records on the file of the Respondent in GSTIN 33AAAPF4157D2ZC/2017-18 dated 30.12.2023 and quash the same as illegal, arbitrary and violative of principles of natural justice.

For Petitioner : Mr.S.Kanmani Annamalai

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For Respondent : Mrs.K.Vasanthamala, Govt. Adv. (T)

ORDER

An order in original dated 30.12.2023 is challenged on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that he was unaware of proceedings culminating in the impugned order because the show cause notice and other communications were uploaded on the GST portal, but not communicated to the petitioner through any other mode. The present writ petition was filed in the said facts and circumstances.

2. Learned counsel for the petitioner submits that the confirmed tax proposal relates to the low outward supply in comparison to purchases reflected in the auto-populated GSTR 2A. He submits that outward supply was made in the subsequent period and that the petitioner would have been in a position to explain the same if the petitioner was aware of proceedings. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

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3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She submits that principles of natural justice were complied with by issuing ASMT 10 notice dated 27.07.2023, show cause notice dated 13.09.2023 and by offering a personal hearing by notice dated 21.11.2023. She also submits that the assessing officer was constrained to compute the outward supply turnover by using the inward supply turnover as a bench mark.

4. On examining the impugned order, it is evident that the tax proposal was confirmed by adopting a nominal profit of 10% as specified in Rule 30 of applicable GST Rules. Thus, in spite of the petitioner filing returns, the outward supply turnover was arrived at by assuming a nominal profit. These facts and circumstances justify a remand especially in view of the assertion that the petitioner was unable to participate in proceedings on account of being unaware of the same.

5. For reasons set out above, the impugned order dated 30.12.2023 is set aside on condition that the petitioner remits 10% of the disputed tax

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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.

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

16.07.2024

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

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To

The Deputy State Tax Officer-2,
Koyambedu Assessment Circle,
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