IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17786 of 2024
and W.M.P.Nos.19532 & 19534 of 2024

Tvl. Ravi Maligai,
Represented by its N.Jaganathan,
No.6/35 G, Ravi Maligai, Pavadi Street
Gurusamipalayam, Namakkal,
Tamil Nadu 637 403. ... Petitioner

-vs-

1.The State Tax Officer,
Rasipuram Assessment Circle,
Namakkal, Tamil Nadu.

2.The Deputy Commissioner (ST) (GST) (Appeals),
Integrated Commercial Taxes Building, Room No.233,
II Floor, No.17, Pitchards Road, Salem – 7. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the impugned order dated 27.07.2023 with the reference ZD330723119091T/2017-18 in the files of the respondent, quash the same.

For Petitioner : Ms.Saitanya Kesan

For Respondents : Mr.G.Nanmaran, Spl. GP

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ORDER

An order in original dated 27.07.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner states that he carries on trade in groceries and is not computer literate. Since the show cause notice and other communications were uploaded on the GST portal but not communicated to the petitioner through any other mode, it is stated that the petitioner was not aware of proceedings until after the order in original was issued. Upon coming to know of such order in original, it is stated that a statutory appeal was presented before the appellate authority, but such appeal was rejected on the ground of limitation.

2. Learned counsel for the petitioner submits that the confirmed tax proposal relates to a mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. If provided an opportunity, it is submitted that the petitioner would be in a position to establish that only eligible Input Tax Credit was claimed. After pointing out that 10% of the disputed tax demand was remitted while lodging the statutory appeal, learned counsel submits that the petitioner agrees to remit an additional 5% as a condition for remand.

3. Mr.G.Nanmaran, learned Special Government Pleader, accepts notice for the respondents. He submits that notice in Form ASMT 10 was issued on 30.04.2021 upon scrutiny of the petitioner's returns. He also submits that principles of natural justice were complied with by issuing intimation dated 08.07.2022, show cause notice dated 21.12.2022 and by issuing at least two personal hearing

notices.

4. On perusal of the order in original, it is evident that the tax proposal was confirmed in view of the petitioner's failure to respond to the show cause notice or appear for the personal hearing. It is also recorded therein that the petitioner did not comply with the requirements of Circular No.183. By taking note of the assertions in the affidavit that the petitioner could not participate in proceedings on account of being unaware of communications uploaded on the GST portal, it is just and appropriate that an opportunity be provided to the petitioner by putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 27.07.2023 is set aside on condition that the petitioner remits an additional 5% 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 of the petitioner's reply and on being satisfied that 15% of the disputed tax demand, in the aggregate, 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.17786 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19532 and 19534 of 2024 are closed.

24.07.2024

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

To

1.The State Tax Officer,
Rasipuram Assessment Circle,
Namakkal, Tamil Nadu.

2.The Deputy Commissioner (ST) (GST) (Appeals),
Integrated Commercial Taxes Building, Room No.233,

II Floor, No.17, Pitchards Road, Salem – 7.

SENTHILKUMAR RAMAMOORTHY,J

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