IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **23.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17585 of 2024
and W.M.P.Nos.19373 & 19375 of 2024

M/s.Prasad Productions Private Limited,
Represented by its Director Mr.Saiprasad,
No.28, Arunachalam Road, Saligramam,
Chennai, Tamil Nadu 600 093. ... Petitioner

-vs-

The State Tax Officer,
Ashok Nagar Assessment Circle,
No.1, PAPJM Buildings (Annex),
Greams Road, Chennai,
Tamil Nadu – 600 006. ... Respondent

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 28.12.2023 with the reference ZD331223246786B/2017-18 in the files of the respondent, quash the same.

For Petitioner : Mr.Saitanya Kesan

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

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ORDER

An order in original dated 28.12.2023 is impugned on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that GST compliances were entrusted to the Accountant. In view of the resignation of such Accountant, it is stated that the petitioner was unaware of proceedings until recently.

2. 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. If provided an

opportunity, she submits that the petitioner would be in a position to explain the mismatch and establish that only eligible Input Tax Credit was claimed. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing show cause notice dated 21.09.2023 and by offering a personal hearing.

4. On perusal of the impugned order, it is clear that the tax proposal was confirmed because the tax payer did not reply to the show cause notice. By taking into account the assertion that the failure to participate was due to being unaware of proceedings, the interest of justice warrants that an opportunity be provided to the petitioner to contest the tax demand on merits, albeit by putting the

petitioner on terms.

5. Therefore, impugned order dated 28.12.2023 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 of the petitioner's reply 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.

6. W.P.No.17585 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19373 and 19375 of 2024 are closed.

23.07.2024

rna
Index : Yes / No
Internet : Yes / No

Neutral Citation: Yes / No

To

The State Tax Officer,
Ashok Nagar Assessment Circle,
No.1, PAPJM Buildings (Annex),
Greams Road, Chennai,
Tamil Nadu – 600 006.

SENTHILKUMAR RAMAMOORTHY,J

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