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.17312 of 2024 and
W.M.P.Nos.19092 & 19093 of 2024

M/s.Taj Enterprises,
Rep. by its Proprietor Mr.Fazal Basha,
No.27/16, NA, Burrah Shahib Street,
Anna Salai, Chennai-600 002. ... Petitioner

-vs-

The Deputy State Tax Officer,
Thiruvallikeni Assessment Circle,
Room No.421, Integrated Commercial Taxes Building,
Nandanam, Chennai-600 035. ... 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.33ABLPF8860DIZQ/2017-18 dated 26.12.2023 and quash the same as illegal, arbitrary and violative of principles of natural justice.

For Petitioner : Mr.S.Kanmani Annamalai

For Respondent : Mr.V.Prashanth Kiran, Govt. Adv. (T)

ORDER

An order in original dated 26.12.2023 is challenged on the ground of breach of principles of natural justice. 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.

2. 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 establish that only eligible Input Tax Credit (ITC) was claimed. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing show cause notice dated 26.09.2023 and by issuing

three notices for a personal hearing.

4. On examining the impugned order, it is evident that the tax proposal was confirmed in view of the petitioner's failure to reply to the show cause notice and establish the supply and receipt of goods along with proof of movement thereof. By taking into account the assertion that such non participation was on account of not being aware 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. For reasons set out above, the impugned order dated 26.12.2023 is set aside on condition that the petitioner remits 10% of the disputed tax 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 by enclosing all relevant documents, including documents to establish actual movement of goods. Upon receipt thereof 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,
Thiruvallikeni Assessment Circle,
Room No.421, Integrated Commercial Taxes Building,
Nandanam, Chennai-600 035.

SENTHILKUMAR RAMAMOORTHY,J

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