IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12.07.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17211 of 2024 and
W.M.P.Nos.18984 & 18986 of 2024

M/s.V.S.R.Agro Products,
Represented by its Partner,
Sri. M.C.Vijayan,
S.No.73/1C73/1C274/2,
BRG Madhepalli Village,
Bargur, Krishnagiri-635 104. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Krishnagiri-II Assessment Circle,
Krishnagiri. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the respondent herein in GSTIN 33AALFV8718M1ZH/ 2017-18 and quash the proceeding dated 17.10.2023 passed therein.

For Petitioner : Mr.B.Raveendran

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

ORDER

An order dated 17.10.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the total 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 in the "View Additional Notices and Orders" tab and not communicated to the petitioner through any other mode.

2. Learned counsel for the petitioner submits that the tax proposal related to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. After the impugned order was issued, he submits that the petitioner discharged the entire demand towards tax and interest. He further contends that the ingredients of Section 74 are not satisfied in this case and that the respondent failed to act in accordance with sub-section (4) of Section 126 of applicable GST statutes. In these circumstances, he

submits that reconsideration is necessary.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that these proceedings originated in scrutiny of the petitioner's returns by issuing notice in Form ASMT 10. He further submits that principles of natural justice were complied with by issuing intimation dated 25.07.2023, show cause notice dated 21.08.2023 and by offering a personal hearing.

4. On perusal of the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not file any written objection or attend the personal hearing. By taking into account the assertion that such non participation was on account of not being aware of proceedings, the matter requires reconsideration. It should also be noticed that the petitioner discharged the entire tax and interest demand.

5. For reasons set out above, the impugned order dated 17.10.2023 is set aside subject to verification of the payment made by the petitioner under Form DRC-03 on 30.10.2023. The petitioner is permitted to submit a reply

to the show cause notice within 15 days from the date of receipt of a copy of this order. Upon receipt thereof, 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.

12.07.2024

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

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To

The Assistant Commissioner (ST),
Krishnagiri-II Assessment Circle,
Krishnagiri.

SENTHILKUMAR RAMAMOORTHY,J

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