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.17271 of 2024 and
W.M.P.Nos.19059 & 19060 of 2024

Swarna Siddhi Jewellers,
Represented by its Partner Ankit Jain,
3rd, 130, Dhanalakshmi Complex,
110, N.S.C. Bose Road,
Sowcarpet, Chennai-600 079. ... Petitioner

-vs-

State Tax Officer (ST),
Moore Market Assessment Circle,
Station No.32, Integrated Commercial Taxes Officer,
Elephant Gate Bridge Road,
Chennai-600 003. ... 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 order dated 21.12.2023 passed in GSTIN 33ACVFS9244H1Zl and quash the same.

For Petitioner : Ms.N.Janani
for Mr.Adithya Reddy

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

ORDER

An order in original dated 21.12.2023 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 until he received a phone call from the respondent threatening recovery. It is stated that the show cause notice and all 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 confirmed tax proposal relates 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 that only eligible Input Tax Credit (ITC) 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.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 29.09.2023 and by offering a personal hearing through reminder dated 13.12.2023.

4. The impugned order discloses that the tax proposal was confirmed because the tax payer neither replied to the show cause notice nor availed of the opportunity of personal hearing. By taking into account the assertion that such non participation was on account of not being aware of proceedings, it is just and appropriate that an opportunity be provided to the petitioner to contest the tax demand on merits by putting the petitioner on terms.

5. For reasons set out above, the impugned order dated 21.12.2023 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 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

State Tax Officer (ST),
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SENTHILKUMAR RAMAMOORTHY,J

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