IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 18.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17475 of 2024
and W.M.P.Nos.19268 & 19269 of 2024

Tvl. T.Govindaraj
Rep. By its Proprietor,
Govindaraj,
No.28, NA, Thulukattamman Koil St,
Dargas Nagar,
Guduvanchery,
Kancheepuram 603 202. ... Petitioner

-vs-

The Deputy State Tax Officer – 1,
Maraimalainagar Assessment Circle,
4/109, Second Floor,
Bangalore Chennai Highway,
Varadarajapuram, Nazarathpet,
Chennai 600 123. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in GSTIN: 33ALGPG6675G1Z2 / 2017-2018 dated 29.12.2023 and quash the same and consequently direct the respondent to given a opportunity of personal hearing.

For Petitioner : Mr.P.R.Kumar

For Respondent : Mr.C.Harsha Raj, AGP (T)

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ORDER

An order in original dated 29.12.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that he is a small dealer and that he is not conversant with the functioning of the GST portal. Since the show cause notice and other communications were uploaded on the portal but not communicated to the petitioner through any other mode, it is stated that the petitioner was unaware of proceedings and consequently could not participate in the same.

2. Learned counsel for the petitioner submits that the confirmed tax proposal pertains to alleged excess ITC claim on RCM basis. If provided an opportunity, he submits that the petitioner would be in a position to establish that only eligible Input Tax Credit was claimed. Learned counsel submits that 10% of the disputed tax demand was paid on 13.06.2024 under DRC-03.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing intimation dated 26.09.2023, show cause notice dated 29.09.2023 and by issuing a reminder in respect of a personal hearing.

4. On examining the impugned order, it is evident that the tax proposal was confirmed because the tax payer neither replied to the show cause notice nor appeared for the personal hearing. By taking

into account the assertion that the petitioner could not participate in proceedings on account of not being aware of the same, it is just and appropriate that an opportunity be provided to the petitioner. In this regard, it is pertinent to notice that the petitioner has remitted 10% of the disputed tax demand.

5. In these facts and circumstances, impugned order dated 29.12.2023 is set aside and the matter is remanded for re-consideration. The petitioner is permitted to submit a reply to the show cause notice within ***fifteen 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 ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.No.17475 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19268 and 19269 of 2024 are closed.

18.07.2024

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

To

The Deputy State Tax Officer – 1,
Maraimalainagar Assessment Circle,
4/109, Second Floor,
Bangalore Chennai Highway,
Varadarajapuram, Nazarathpet,
Chennai 600 123.

SENTHILKUMAR RAMAMOORTHY,J

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