IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **23.07.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.No.17760 of 2024**
**and W.M.P.Nos.19503 & 19506 of 2024**

Tvl. Casino Furniture,
GSTIN/ID:33AMZPA9387M1Z3,
Represented by its Proprietor Aboothahir,
8/57, Palakkad Main Road,
BK Pudur, Coimbatore-641 008. ... Petitioner

-vs-

The Deputy State Tax Officer-1,
Kuniyamuthur Assessment Circle,
Commercial Tax Building,
Dr.Balasundaram Road,
Coimbatore-641 018. ... Respondent

**PRAYER**: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records pertaining to the impugned order in Form GST DRC - 07 bearing reference number ZD3312232510713 / 2017-18 dated 28.12.2023 issued by the Respondent and quash the same.

For Petitioner : Ms.S.P.Sri Harini
for Mr.S.Durai Raj

For Respondent : Mrs. K.Vasanthamala, Govt. Adv. (T)

**ORDER**

An order in original dated 28.12.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. By asserting that the show cause notice and other communications were uploaded in the “View Additional Notices and Orders” tab on the GST portal and not communicated to the petitioner through any other mode, the present writ petition was filed.

2. Learned counsel for the petitioner submits that the confirmed tax proposal pertains to the mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A as also in respect of Input Tax Credit (ITC) claimed on inward RCM supplies. If provided an opportunity, learned counsel submits that the petitioner would be in a position to establish that only eligible ITC was claimed. On instructions, she submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for

remand.

3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She submits that principles of natural justice were complied with by issuing intimation dated 28.08.2023, show cause notice dated 22.09.2023 and by issuing personal hearing notices.

4. On examining the impugned order, it is evident that the tax proposals were confirmed on account of the petitioner not replying to the intimation and show cause notice or availing of the personal hearing opportunities. By taking into account the assertion that such non participation was on account of not being aware of proceedings, the interest of justice warrants reconsideration by putting the petitioner on terms.

5. Therefore, the 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 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.

**23.07.2024**

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

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To

The Deputy State Tax Officer-1,
Kuniyamuthur Assessment Circle,
Commercial Tax Building,
Dr.Balasundaram Road,
Coimbatore-641 018.

**SENTHILKUMAR RAMAMOORTHY,J**

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