IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **15.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17256 of 2024
and W.M.P.Nos.19040, 19041 & 19042 of 2024

Tvl. Sri Murugan Traders,
Represented by its Proprietor C.Periyasamy,
No.23C, Kattupalayam,
Kangayampalayam, Kangayam
Tiruppur, Tamilnadu-638 701
Tamilnadu
GSTIN:33BAQPP8124F1ZJ ... Petitioner

-vs-

1.The State Tax Officer, (ST) Kangeyam,
O/o. The Commercial Tax Officer,
Kangeyam, Tiruppur,
Tamilnadu.

2.The Bank Manager,
State Bank of India,
Kangeyam Branch,
Kangeyam. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records on the file f the 1st Respondent in its impugned proceedings for the Assessment year 2017-18 in GSTIN:33BAQPP8124F1ZJ/2017-2018 dated 20.12.2023 and the consequential DRC-07 order bearing Ref

No.ZD3312231487821 dated 20.12.2023 and quash the same.

For Petitioner : Ms.R.Hemalatha

For Respondents : Mr.G.Nanmaran
Spl. Govt. Pleader for R1

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ORDER

An order in original dated 20.12.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that the show cause notice and other communications were uploaded on the GST portal. It is further stated that GST compliances were entrusted to a local tax consultant and that the tax proposal arose out of an error committed with regard to the filing of returns by such tax consultant.

3. Learned counsel for the petitioner submits that the tax proposal relates to a mismatch between the petitioner's GSTR 1 and GSTR 3B returns. She also submits that the defect is confined to November 2017 and that this was the first year of GST

implementation. Without prejudice, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.Nanmaran, learned Special Government Pleader, accepts notice for the first respondent. He submits that principles of natural justice were complied with by issuing intimation dated 09.09.2024, show cause notice dated 30.09.2024 and by issuing multiple reminders in respect of the personal hearing.

5. On examining the impugned order, it is evident that the tax proposal was confirmed only on account of the fact that the taxpayer did not file any objection to the show cause notice. In view of the assertion that the tax proposal arose out of an inadvertent error committed by the tax consultant, the interest of justice warrants reconsideration by putting the petitioner on terms.

6. Therefore, the impugned order dated 20.12.2023 is set aside on condition that the petitioner remits 10% of the disputed tax

demand as agreed to within a period of ***fifteen days*** from the date of receipt of a copy of this order. The petitioner is also 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 first 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. On account of the impugned assessment order being set aside, the bank attachment is raised.

7. W.P.No.17256 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19040, 19041 & 19042 of 2024 are closed.

15.07.2024

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

To

1.The State Tax Officer, (ST) Kangeyam,
O/o. The Commercial Tax Officer,
Kangeyam, Tiruppur,

Tamilnadu.

2. The Bank Manager,
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<u>SENTHILKUMAR RAMAMOORTHY,J</u>

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