IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **15.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17081 of 2024
and W.M.P.Nos.18830 & 18832 of 2024

Indurani ... Petitioner

-vs-

The Deputy Commercial Tax Officer,
Porur Assessment Circle,
Station No.4/109, 1st Floor,
Bangalore Highway Road,
Varadharajapuram, Nazeratpet,
Chennai – 600 123. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records GSTIN: 33AAHPI8613G1ZW/2017-18 of the Impugned order dated 28.12.2023 passed by respondent and quash the same.

For Petitioner : Mr.S.Muthu Kumar Raja

For Respondent : Mrs.K.Vasanthamala, GA (T)

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ORDER

An order in original dated 28.12.2023 is challenged on the ground of breach of principles of natural justice. The petitioner asserts that he could not reply to the show cause notice on account of ill-health and that the order was passed *ex parte*.

2. Learned counsel for the petitioner submits that the tax proposal was confirmed without the petitioner being heard. Therefore, he seeks another opportunity. On instructions, he 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 show cause notice dated 29.09.2023 and by issuing a notice for personal hearing.

4. On perusal of the impugned order, it is evident that the tax proposal pertained to a mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A as regards eligible Input Tax Credit. Such proposal was confirmed for the sole reason that the petitioner did not file a reply. By taking into account the assertion in the affidavit that the failure to reply was on account of ill-health, 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 aforesaid, 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 ***fifteen days*** from the date of receipt of a copy of this order. Within the said period, the petitioner is

permitted to submit a reply to the show cause notice. Upon receipt thereof and on 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 ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.No.17081 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.18830 and 18832 of 2024 are closed.

15.07.2024

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

To

The Deputy Commercial Tax Officer,
Porur Assessment Circle,
Station No.4/109, 1st Floor,
Bangalore Highway Road,
Varadharajapuram, Nazeratpet,
Chennai – 600 123.

SENTHILKUMAR RAMAMOORTHY,J

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