IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17910 of 2024
and W.M.P.Nos.19647 & 19648 of 2024

M/s.The Connect
Represented by its Partner,
Mr.Satish Velusamy,
074, KVK Complex, VCTV Main Road,
Mettur Road,
Erode 638 011. ... Petitioner

-vs-

1.The Deputy State Tax Officer,
Brough Road, Erode.

2.The Commissioner of GST Appeals,
No.6/7, A.T.D.Street,
Race Course Road,
Coimbatore – 641 018. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records relating to impugned order passed by the 1st respondent bearing Reference No.: ZD331223189418A dated 23.12.2023.

For Petitioner : Ms.S.Yogalakshmi
for Mr.M.Guruprasad

For Respondents : Mr.G.Nanmaran, Spl. GP

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ORDER

An order in original dated 23.12.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner states that the GST registration of the partnership firm was cancelled by order dated 19.10.2020 with effect from 01.10.2020. Consequently, it is stated that the petitioner was not monitoring the GST portal on an on-going basis. As a result, the petitioner asserts that he was unaware of proceedings culminating in the impugned order until phone call was received from the GST office.

2. Learned counsel for the petitioner submits that the confirmed tax proposal pertains to a mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. If provided an opportunity, learned counsel submits that the petitioner would be in a position to establish that only eligible Input Tax Credit 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.G.Nanmaran, learned Special Government Pleader, accepts notice for the respondents. He submits that principles of natural justice were complied with by issuing intimation dated 15.09.2023, show cause notice dated 15.11.2023 and by offering a personal hearing. He also submits that these proceedings were initiated pursuant to a scrutiny of the petitioner's returns.

4. On examining the impugned order, it is clear that the tax proposal was confirmed on account of the petitioner's failure to reply tot he show cause notice. By taking into account the assertion that non participation in proceedings was on account of being unaware of the same in the context of the GST registration being cancelled, the interest of justice warrants re-consideration subject to putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 23.12.2023 is set aside subject to the 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 first 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.17910 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19647 and 19648 of 2024 are also closed.

25.07.2024

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

To

1.The Deputy State Tax Officer,
Brough Road, Erode.

2.The Commissioner of GST Appeals,
No.6/7, A.T.D.Street,
Race Course Road,
Coimbatore – 641 018.

SENTHILKUMAR RAMAMOORTHY,J

rna

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