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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.07.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17981 of 2024 and
W.M.P.Nos.19723 & 19728 of 2024

Amanullakhan ... Petitioner

-vs-

1. The State Tax Officer,
Amaindakarai Assessment Circle,
Chennai Central, Chennai.

2. The Deputy Commercial Tax Officer,
Amaindakarai Assessment Circle,
Chennai Central, Chennai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records in connection with the impugned Assessment orders bearing No.ZD331123122209Y dated 20.11.2023 for the period August-2018 issued by the 2nd respondent and the consequential notice for recovery of arrears bearing reference No.RFN.MA330324089393V, dated 16.03.2024 issued by the 1st

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respondent for all the Assessment Orders that are said to have been passed on 20.11.2023 and 21.11.2023 by the 2nd respondent for the period from 2017-18 and 2018-19 and quash the same.

For Petitioner : Mr.K.Krishnamoorthy

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

ORDER

In this writ petition, an order in original dated 20.11.2023 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 he was a registered person under applicable GST enactments. Upon closing the business, it is stated that the GST registration of the petitioner was cancelled. In view thereof, the petitioner states that he was not monitoring the GST portal and was, consequently, unaware of proceedings because the show cause notice and other communications were only uploaded on the GST portal.

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2. Learned counsel for the petitioner referred to the cancellation of the GST registration of the petitioner and submitted that the petitioner was unaware of proceedings after such cancellation since the petitioner had also ceased to carry on business. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondents. He submits that the impugned order was issued in compliance with principles of natural justice after issuing a notice in Form GSTR 3A. Since the petitioner did not file returns in response thereto, he submits that the respondents were constrained to undertake assessment on best judgment basis.

4. On perusal of the impugned order, it is clear that notice in Form GSTR 3A was issued to the petitioner. Since the petitioner failed to respond thereto or to file returns, the assessment was undertaken on best judgment basis. By taking into consideration the assertion that the petitioner was unaware of proceedings on account of his GST registration being cancelled,

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the interest of justice warrants reconsideration by putting the petitioner on terms.

5. For reasons set out above, the impugned order dated 20.11.2023 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 2nd 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. In view of the assessment order being set aside, the bank attachment is raised. For the avoidance of doubt, it is made clear that amounts previously appropriated from the petitioner's bank account and the above remittance shall abide by the outcome of the remanded proceedings.

6. The writ petition is disposed of on the above terms without any

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order as to costs. Consequently, connected miscellaneous petitions are closed.

10.07.2024

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

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To

1. The State Tax Officer,
Amaindakarai Assessment Circle,
Chennai Central, Chennai.

2. The Deputy Commercial Tax Officer,
Amaindakarai Assessment Circle,
Chennai Central, Chennai.

SENTHILKUMAR RAMAMOORTHY,J

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