IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **26.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18161 of 2024
and W.M.P.Nos.19947 & 19948 of 2024

M/s.Coffee Hut, Represented by its Proprietor,
Plot No.86, Shirdi Sai Ellam, 1st Street, Viduthalai Nagar,
S.Kolathur, Kovilambakkam, Chennai 600 129. ... Petitioner

-vs-

The Deputy State Tax Officer-2,
Medavakkam Assessment Circle,
No.571, Integrated Commercial Taxes and
Registration Department (South Tower),
Room No.232, 2nd Floor, Nandanam,
Chennai 600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the respondent in his proceedings in GSTIN / 33AEOPR3576C1ZC /

2017-18, quash the order dated 20.12.2023.

For Petitioner : Mr.P.V.Sudakar

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

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ORDER

An order in original dated 20.12.2023 is challenged on the ground that the petitioner was not granted sufficient time to contest the tax demand on merits. The petitioner is a dealer in pasteurized milk, tea and coffee. Therefore, the petitioner had filed GSTR 3B returns and paid tax on outward supply of tea and coffee. In the GSTR 1 return, the petitioner had provided details of outward supply of all products, including the exempted pasteurized milk. In these circumstances, upon receipt of show cause notice dated 22.09.2023, by reply dated 02.11.2023, the petitioner requested for time. The impugned order was issued in these facts and circumstances.

2. Learned counsel for the petitioner submits that the petitioner has a good case on merits and that the mismatch is entirely on account of providing particulars of exempted supplies in the GSTR 1 returns and not specifying the same in the GSTR 3B returns. Without prejudice, learned counsel submits that the petitioner agrees to remit a sum of Rs.3,00,000/- towards 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 notice in Form ASMT 10 dated 18.04.2023, intimation dated 26.04.2023, show cause notice dated 09.09.2023 and by issuing multiple reminders. She also points out that the tax payer requested for time and failed to submit a reply notwithstanding the request for adjournment being accepted.

4. On examining the impugned order, it is evident that the tax proposal was confirmed solely on the ground that the tax payer failed to file objections within the specified time. The petitioner has asserted in the affidavit that the failure to respond on merits was on account of the ill-health of the petitioner. Moreover, it is stated that the omission to report the outward supply of pasteurized milk was due to lack of knowledge and that the said goods are exempted. These circumstances justify re-consideration subject to imposing terms on the petitioner.

5. For reasons aforesaid, impugned order dated 20.12.2023 is set aside subject to the condition that the petitioner remits a sum of Rs.3,00,000/- towards the disputed tax demand as agreed to within ***three weeks*** 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 of such reply and on being satisfied

that a sum of Rs.3,00,000/- towards 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.18161 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19947 and 19948 of 2024 are closed.

26.07.2024

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

To

The Deputy State Tax Officer-2,
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No.571, Integrated Commercial Taxes and
Registration Department (South Tower),
Room No.232, 2nd Floor, Nandanam,
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SENTHILKUMAR RAMAMOORTHY,J

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