IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17773 of 2024
and W.M.P.Nos.19521 & 19522 of 2024

Tvl. Bismillah Steels,
Represented by its Proprietrix Syed Abdul Hameed.S
No.40, Murugappa Colony,
Saraswathi Nagar, Thirumullaivoyal,
Chennai 600 062. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Korattur Assessment Circle,
Station No.332, 3rd Floor,
Integrated Commercial Taxes Building,
Nandanam, Chennai 600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records of respondent in GSTIN: 33AHAPA9505F1ZY / 2017-18 dated 26.12.2023 along with Order and Summary of Order in Reference No. ZD331223236964F and quash the same and consequently direct the respondent to entertain the records, documents and reply from the petitioner and then pass order after affording a personal hearing to the petitioner.

For Petitioner : Mr.M.Hariharan

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

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ORDER

An order in original dated 28.12.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax proposal on merits. The petitioner asserts that the show cause notice and other communications were uploaded on the "view additional notices and orders" tab in the GST portal and not communicated to the petitioner through any other mode. It is also stated that the petitioner was suffering from renal stones and chronic kidney disease draing the relevant period and was, consequently, not in a position to reply to the show cause notice.

2. Learned counsel for the petitioner submits that the confirmed tax proposal relates to a mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. If provided an opportunity, he 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 tax component in the impugned order as a condition for remand.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing show cause notice dated 29.09.2023 and by offering a personal hearing to the petitioner.

4. On perusal of the impugned order, it is evident that the tax proposal was confirmed because the tax payer failed to reply to the show cause notice and the reminder. By taking into account the reasons set out in the affidavit for non participation, the interest of justice warrants re-consideration subject to putting the petitioner on terms.

5. Therefore, 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 of the petitioner's reply 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. In view of the assessment order being set aside, the bank attachment is raised.

6. W.P.No.17773 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19521 and 19522 of 2024 are closed.

24.07.2024

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

To

The Assistant Commissioner (ST),
Korattur Assessment Circle,
Station No.332, 3rd Floor,
Integrated Commercial Taxes Building,
Nandanam, Chennai 600 035.

SENTHILKUMAR RAMAMOORTHY,J

rna

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