IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **23.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18181 of 2024
and W.M.P.Nos.19969 & 19970 of 2024

Thiyagaraja Enterprises,
Represented by its Managing Partner
T.Muthulingam,
GSTIN/ID:33AALFT8375L1ZG,
Address:338/A2, Bendrahalli,
Pochampalli, Krishnagiri,
Tamil Nadu:635 201. ... Petitioner

-vs-

The Office of Assistant Commissioner (State Taxes),
Krishnagiri-II,
Hosur, Krishnagiri,
Tamil Nadu-635 001. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling upon the records of the impugned Assessment orders vide Reference No. ZD3310230132563 FY 2019-20 dated 04.10.2023 passed by the Respondent Authority and quash the same.

For Petitioner : Mr.S.Nirmal Aditya

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

ORDER

An order in original dated 04.10.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that GST compliances were entrusted to an accountant who left the services of the company. In view thereof, it is stated that the petitioner was unaware of the show cause notice and the impugned order until recently because the communications were merely uploaded on the portal and not communicated to the petitioner through any other mode.

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. He submits that the show cause notice and the impugned order do not contain any particulars regarding such mismatch. Without prejudice, on instructions, learned counsel 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 respondent. He submits that principles of natural justice were complied with by issuing ASMT 10 notice dated 12.04.2023, show cause notice dated 22.08.2023 and by offering a personal hearing.

4. On perusal of the impugned order, it is evident that the tax proposal relates to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. It should be noticed, in this regard, that the tax proposal was confirmed solely on account of the tax payer not filing written objection or attend the personal hearing. By taking into account the assertion that non participation was on account of not being aware of proceedings, the interest of justice warrants reconsideration subject to putting the petitioner on terms.

5. In the above facts and circumstances, the impugned order dated 04.10.2023 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 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.

6. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

23.07.2024
(2/4)

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

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SENTHILKUMAR RAMAMOORTHY,J

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To

The Office of Assistant Commissioner (State Taxes),
Krishnagiri-II,
Hosur, Krishnagiri,
Tamil Nadu-635 001.

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