



W.P.No.17767 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 24.07.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.17767 of 2024
and W.M.P.Nos.19512 & 19513 of 2024

M/s.Global Innovatives,
Rep. By its Proprietor,
Mrs.M.Sumathi,
No.1493, 13th Main Road,
Anna Nagar West,
Chennai 600 040.

... Petitioner

-VS-

The Deputy State Tax Officer – II,
Koyambedu Assessment Circle,
No.4/109, I Floor,
Bangalore Chennai High Way,
Varadharajapuram,
Nazrethpettai, 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 on



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the file of the respondent in GSTIN: 33ANAPS1264K1Z0 / 2017-18 dated 13.12.2023 and quash the same as illegal, arbitrary and violative of principles of natural justice.

For Petitioner : Ms.S.Kanmani Annamalai

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

ORDER

An order in original dated 13.12.2023 is assailed on the ground of breach of principles of natural justice. The petitioner states that her business was closed on 26.07.2021 and that the GST registration was also cancelled with effect from such date by order dated 27.08.2021. In those circumstances, it is stated that the petitioner did not monitor the GST portal. Since the show cause notice and other communications were uploaded on the portal but not communicated to the petitioner through any other mode, it is stated that the petitioner could not participate in proceedings culminating in the



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impugned order.

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2. Learned counsel for the petitioner submits that the petitioner remitted tax upon coming to know about the impugned proceedings. He further submits that the impugned order relates to the alleged shortfall in tax paid in respect of the claim relating to excess availment of Input Tax Credit, and interest and penalty with regard to alleged sales suppression. 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. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She submits that ASMT 10 notice dated 01.08.2023 was issued to the petitioner upon scrutiny of returns. This was followed by show cause notice dated 15.09.2023 and that a personal hearing was offered on 13.10.2023.



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4. The order of cancellation of registration indicates that such cancellation was with effect from 26.07.2021. The scrutiny of returns and the adjudication proceedings took place after such cancellation. On perusal of the impugned order, it is evident that the tax proposals were confirmed because the tax payer had not replied to the show cause notice. Credit was given for taxes paid earlier by the petitioner. In the overall facts and circumstances outlined above, the interest of justice warrants re-consideration subject to putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 13.12.2023 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



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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.17767 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19512 and 19513 of 2024 are closed.

24.07.2024

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

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SENTHILKUMAR RAMAMOORTHY,J

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