IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 24.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17904 of 2024
and W.M.P.Nos.19641 & 19643 of 2024

M/s.V S Hyper Mart,
Represented by its Partner,
Door No.2, Muthulakshmi Tower,
Veeraraghavan Street,
Nanganallur, Chennai 600 061. ... Petitioner

-vs-

The State Tax Officer,
Nanganallur Assessment Circle,
Integrated Commercial Taxes and
Registration Department (South Tower)
Room No.224, 2nd Floor, Anna Salai,
Nandanam, Chennai – 35. ... 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: 33AAMFV0840R1ZN /

2017-18, quash the order dated 30.12.2023 passed therein.

For Petitioner : Mr.P.V.Sudakar

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

****

ORDER

An order in original dated 30.12.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax proposal on merits. Upon receipt of show cause notice dated 20.09.2023, by reply dated 01.11.2023, the petitioner requested for further time. The impugned order was issued in these facts and circumstances on 30.12.2023.

2. Learned counsel for the petitioner referred to the petitioner's reply and pointed out that the petitioner had requested for further time so as to produce all relevant documents to establish that only

eligible Input Tax Credit was availed of. Since the order was issued without the petitioner being heard, learned counsel seeks another opportunity and 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 the petitioner was aware of proceedings and that the same is evidenced by the petitioner's request for an adjournment. He also submits that principles of natural justice were complied with not only by issuing show cause notice dated 20.09.2023 but by issuing personal hearing notices.

4. On examining the impugned order, it is evident that the tax proposal pertains to the mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. Such tax proposal was confirmed because there was no reply on merits. By taking into

account the petitioner's assertion that he was unable to reply on merits on account of non availability of documents at the relevant time, the interest of justice warrants that another opportunity be provided to the petitioner by putting the petitioner on terms.

5. For reasons aforesaid, the impugned order dated 30.12.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of ***fifteen days*** from the date of receipt of a copy of this order. Within the aforesaid period, the petitioner is permitted to submit a reply to the show cause notice. 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. W.P.No.17904 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19641 and 19643 of 2024 are closed.

24.07.2024

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

To

The State Tax Officer,
Nanganallur Assessment Circle,
Integrated Commercial Taxes and
Registration Department (South Tower)
Room No.224, 2nd Floor, Anna Salai,
Nandanam, Chennai – 35.

SENTHILKUMAR RAMAMOORTHY,J

rna

W.P.No.17904 of 2024
and W.M.P.Nos.19641 & 19643 of 2024

24.07.2024