IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18295 of 2024
and W.M.P.Nos.20080 & 20083 of 2024

Tvl. Cut Mark
Represented by its Proprietor Mr.S.Shrinath
No.111/1, New No.251/1, Bharathi Salai,
Royapettah, Chennai 600 014. ... Petitioner

-vs-

The Deputy State Tax Officer,
Thiruvallikeni Assessment Circle,
Govt. Farm Village, 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 impugned order dated 27.12.2023 with the reference GSTIN / 33BCJPS1499F1ZB/2017-2018 in the files of the respondent, quash the same.

For Petitioner : Mr.N.Murali
for Mr.S.Ramamurthy

For Respondent : Mr.G.Nanmaran, Spl. GP

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ORDER

An order dated 27.12.2023 is challenged in this writ petition on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that the show cause notice and other communications were uploaded on the "view additional notices" tab on the common portal and that the petitioner's accountant failed to notice the same on that account.

2. Learned counsel for the petitioner submits that the tax

proposals pertained to the mismatch between the petitioner's GSTR 1 and GSTR 3B returns as also between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. Pursuant to the order impugned herein, he submits that a sum of Rs.78,489/- was appropriated from the petitioner's bank account as against the total tax demand of Rs.1,02,470/-.

3. Mr.G.Nanmaran, learned Special 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 issuing reminder dated 20.12.2023.

4. On perusal of the impugned order, it is clear that the tax proposals were confirmed because the petitioner failed to reply to the show cause notice or participate in proceedings thereafter. By taking into account the assertion that such non participation was on account of not being aware of proceedings, the interest of justice warrants re-

consideration. In this connection, the petitioner has placed on record evidence that a sum of Rs.78,489/- was appropriated from his bank account. This sum represents about 75% of the total tax demand under the impugned order. To that extent, revenue interest stands secured.

5. Therefore, impugned order dated 27.12.2023 is set aside and the matter is remanded for re-consideration. The petitioner is permitted to submit a reply to the show cause notice within ***fifteen days*** from the date of receipt of a copy of this order. Upon receipt thereof, 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. For the avoidance of doubt, it is made clear that the amount appropriated from the petitioner's bank account shall abide by the outcome of the remanded proceedings. In view of the assessment order being set aside, the bank attachment is

raised.

6. W.P.No.18295 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.20080 and 20083 of 2024 are closed.

30.07.2024

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

To

The Deputy State Tax Officer,
Thiruvallikeni Assessment Circle,
Govt. Farm Village, Nandanam,
Chennai 600 035.

<u>SENTHILKUMAR RAMAMOORTHY,J</u>

rna

<u>W.P.No.18295 of 2024</u>
<u>and W.M.P.Nos.20080 & 20083 of 2024</u>

30.07.2024