IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18028 of 2024
and W.M.P.Nos.19791 & 19792 of 2024

Yes Gee ARR Control Systems
Represented by its Proprietor
S.G.Chandra Sekar, No.322/1, SSSR Avenue,
Indira Nagar, Pattur Mangadu,
Chennai 600 122. ... Petitioner

-vs-

The Deputy State Tax Officer – 2,
Kundrathur Assessment Circle,
No.4/109, Bangalore NH Road,
Varadharajapuram, Nazarathpettai
Chennai 600 123. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the impugned order of the respondent passed in GSTIN / 33AFIPC4359P1Z5 /

2018-19 dated 29.04.2024 and quash the same.

For Petitioner : Mr.N.Murali

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

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ORDER

An order in original dated 29.04.2024 is assailed in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. Upon receipt of show cause notice dated 23.12.2023 in respect of three issues, the petitioner replied on 25.12.2023. The impugned order was issued in these circumstances on 29.04.2024.

2. Learned counsel for the petitioner submits that the petitioner carries on the business of manufacturing electrical panel boards. It is stated that the petitioner was unable to respond to the show cause

notice issue-wise and could only send a general reply. If provided an opportunity, learned counsel submits that the petitioner would be in a position to contest the tax proposals effectively. On instructions, learned counsel submits that the petitioner agrees to remit 15% 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 intimation dated 25.11.2023, show cause notice dated 23.12.2023 and by offering a personal hearing.

4. The petitioner's reply is on record. By such reply, the petitioner stated that it is not his fault that creditors were not paid for 180 days. It was further stated that the notice was not being accepted for such reason. In effect, the petitioner does not appear to have understood the nature of the tax proposals while replying. As a

registered person in receipt of a show cause notice, it was the petitioner's obligation to respond to such show cause notice by dealing with each issue referred to therein. At the same time, on examining the impugned order, it is noticeable that each defect dealt with therein was confirmed on the ground that the tax payer did not produce any supporting documents. The petitioner asserts that he would be in a position to establish that only eligible Input Tax Credit was claimed and that the tax proposals relating to defects 2 and 3 are also liable to be dropped. Since the petitioner was not heard on merits, it is just and appropriate that an opportunity be provided to the petitioner albeit by putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 29.04.2024 is set aside on condition that the petitioner remits 15% 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 an additional reply to the show cause notice. Upon receipt of the petitioner's reply and on being satisfied that 15%

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 additional reply.

6. W.P.No.18028 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19791 and 19792 of 2024 are closed.

30.07.2024

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

To

The Deputy State Tax Officer – 2,
Kundrathur Assessment Circle,
No.4/109, Bangalore NH Road,
Varadharajapuram, Nazarathpettai
Chennai 600 123.

SENTHILKUMAR RAMAMOORTHY,J

rna

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