IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **29.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18061 of 2024
and W.M.P.Nos.19841 & 19844 of 2024

Tvl. Varshini Enterprises,
Rep. By its C.P.Sathish Kumar,
3rd Floor, No.44, JN Road,
Trivallur 602 001. ... Petitioner

-vs-

The Deputy State Tax Officer,
Office of the Commercial Tax Officer,
Trivallur Assessment Circle,
4/109, Integrated Goods and Service Taxes Building,
2nd Floor, Bangalore Highway,
Nazarathpettai, Chennai 123. ... 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 the files of respondent in the impugned order in GSTIN /

33AGQPC1564P2Z1/2017-18 dated 29.12.2023 along with consequential order in Form GST DRC – 07 bearing a Ref. No. ZD331223267072T dated 29.12.2023 for the tax period July, 2017 to March 2018 quash the same as being contrary to the provision of CGST Act, 2017.

For Petitioner : Mr.S.Rajendran

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

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ORDER

An order in original dated 29.12.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that an inadvertent error was committed by his auditor while filing the GSTR 3B returns for the months of July 2017 to March 2018. It is stated that instead of reporting in column 4(A)(5) pertaining to all other ITC, reporting was done under column 4(A)(3). In view of the auditor being on leave, it is stated that the petitioner requested for an adjournment to reply to show cause notice dated 26.09.2023. Without providing such opportunity, it is stated that the order was issued on 29.12.2023.

2. Learned counsel for the petitioner submits that the tax liability is entirely as a consequence of the inadvertent error committed while filing the GSTR 3B returns. He also submits that the petitioner's reply was not referred to in the impugned order. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She submits that principles of natural justice were complied with by issuing show cause notice dated 26.09.2023 and by offering a personal hearing to the petitioner.

4. On perusal of the impugned order, it appears that the tax proposal indicated in the show cause notice was confirmed since the no objections were received. The said order does not contain any reasons. By taking into account the above aspect and the assertion that non participation was on account of the auditor being on leave, the interest of justice warrants re-consideration by putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 29.12.2023 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 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. In view of the assessment order being set aside, the bank attachment is raised.

6. W.P.No.18061 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19841 and 19844 of 2024 are closed.

29.07.2024

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

To

The Deputy State Tax Officer,
Office of the Commercial Tax Officer,
Trivallur Assessment Circle,
4/109, Integrated Goods and Service Taxes Building,
2nd Floor, Bangalore Highway,
Nazarathpettai, Chennai 123.

SENTHILKUMAR RAMAMOORTHY,J

rna

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