IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 25.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17897 of 2024
and W.M.P.Nos.19635 & 19636 of 2024

Rajesh Textiles,
Represented by its Proprietor, Shanker Singh,
Old No.8, New No.15, Choolaimedu High Road,
Choolaimedu, Chennai 600 094. ... Petitioner

-vs-

The State Tax Officer,
MMDA Colony Assessment Circle,
No.10, II Floor, Palaniappa Maligai,
Greams Road, Chennai 600 006. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in Reference No. ZD331223267583G dated 29.12.2023 and quash the same and consequently direct the respondent to given an opportunity of personal hearing.

For Petitioner : Mr.P.Suresh Babu

For Respondent : Mr.V.Prashanth Kiran, GA (T)

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ORDER

An order in original dated 29.12.2023 is challenged on the ground that a reasonable opportunity was not provided to the petitioner to contest the tax demand on merits. The petitioner asserts that he is entitled to transitional Input Tax Credit. Consequently, he filed TRAN-1. Upon receipt of show cause notice dated 29.09.2023 calling upon the petitioner to show cause as to why transitional Input Tax Credit should not be denied, the petitioner replied on 05.10.2023 and stated that he had filed all VAT and CST invoices with the TRAN-1 form. A copy of TRAN-1 was enclosed with such reply. The impugned order was issued in these facts and circumstances.

2. Learned counsel for the petitioner submits that the reply was disregarded while confirming the tax proposal. He seeks another opportunity to contest the tax demand on merits. On instructions, learned counsel submits that the petitioner agrees to remit 15% of the disputed tax demand as a condition for remand.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that principles of natural justice were complied with by not only issuing show cause notice dated 29.09.2023, but by issuing a reminder notice dated 26.12.2023 after receiving reply dated 05.10.2023. He also points out that the tax proposal was confirmed because the petitioner failed to comply with the requirements of sub-section (5) of Section 140 of applicable GST enactments by providing necessary documents.

4. On examining the petitioner's reply, it appears that the petitioner enclosed TRAN-1. However, while asserting that the

petitioner has relevant VAT and CST invoices, no other documents were enclosed. To that extent, the petitioner cannot be absolved of responsibility for the confirmation of the tax proposal. However, both in the above mentioned reply and in the affidavit, the petitioner asserts that all relevant documents are available and were filed when TRAN-1 was originally filed. These facts and circumstances justify the provision of another opportunity to the petitioner, albeit by putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 29.12.2023 is set aside subject to the 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 by enclosing all relevant documents. Upon receipt thereof 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.17897 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19635 and 19636 of 2024 are also closed.

25.07.2024

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

To

The State Tax Officer,
MMDA Colony Assessment Circle,
No.10, II Floor, Palaniappa Maligai,
Greams Road, Chennai 600 006.

SENTHILKUMAR RAMAMOORTHY,J

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