IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **29.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18275 of 2024
and W.M.P.Nos.20057 & 20058 of 2024

Lakshmaramji Sukhlal,
Proprietor of Paras Marbles and Granites,
5 and 6, Paras Marbles and Granites,
Near Anand Electronics, Krishnagiri Road,
Hosur, Krisnagiri, Tamil Nadu 635 109. ... Petitioner

-vs-

The Deputy State Tax Officer-1 (ST),
Hosur South-II Circle,
Hosur. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the respondent order dated 23.01.2024 in GSTIN: 33CALPS2636H1ZJ / 2019-20 and to quash the same as it has been passed in violation of principles of natural justice.

For Petitioner : Ms.N.Janani
for Mr.Adithya Reddy

For Respondent : Mrs.K.Vasanthamala, Govt. Adv. (T)

ORDER

An order in original dated 23.01.2024 is challenged in this writ petition both on the ground that a reasonable opportunity was not provided to the petitioner and on the ground that the order was non speaking. The petitioner asserts that he was unaware of the impugned order until he received a phone call from the respondent's office. Subsequently, he states that he discovered that the show cause notice and other communications were uploaded in the “View Additional Notices and Orders” tab on the GST portal.

2. Learned counsel for the petitioner referred to the impugned order and submitted that the said order does not contain proper reasons for confirming the tax proposal, especially under Section 74 of applicable GST enactments. On instructions, she 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 intimation dated 22.09.2023, show cause notice dated 20.12.2023 and by offering a personal hearing. She also submits that the tax payer had entered into dealings with one Naresh Kumar, who is a non-existent dealer.

4. On examining the impugned order, the basis for confirming the tax proposal is unclear from the said order. The petitioner asserts that he was unable to participate in proceedings because all communications were uploaded in the "View Additional Notices and Orders" tab. When the above facts and circumstances are considered cumulatively, a case for reconsideration is made out subject to putting the petitioner on terms.

5. Therefore, the impugned order dated 23.01.2024 is set aside on condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of two weeks from the date of receipt of a copy of this order. The petitioner is permitted to submit a reply to the show cause

notice within the aforesaid period. 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. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

29.07.2024

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

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To

The Deputy State Tax Officer-1 (ST),
Hosur South-II Circle,
Hosur.

SENTHILKUMAR RAMAMOORTHY,J

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