IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17823 of 2024
and W.M.P.Nos.19579 & 19580 of 2024

Tvl. Galaxy Manufacturing
Represented by its Proprietor Shajidha,
5/7D, Chennai Road, Sundampatti,
Krishnagiri – 635 108. ... Petitioner

-vs-

The Deputy State Tax Officer,
Krishnagiri – II, Circle,
Hosur Division,
Tamil Nadu. ... 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 relating to the impugned order dated 27.12.2023 in Form GST DRC – 07 bearing GST No.33GOGPS6180P1Z3/2020-21 issued by the respondent along with consequential demand order dated 27.12.2023 having Reference No. ZD331223212666P and quash the same, as arbitrary.

For Petitioner : Mr.Sanskar Samdaria.S

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

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ORDER

An order in original dated 27.12.2023 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. The petitioner asserts that he was unaware of proceedings culminating in the impugned order because the show cause notice and other communications were uploaded in the "View Additional Notices and Orders" tab on the GST portal, but not communicated to the petitioner through any other mode.

2. Learned counsel for the petitioner submits that the confirmed tax proposal relates to the disparity between the purchase and sales turnover. If provided an opportunity, he submits that the petitioner would be in a position to explain such disparity. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

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 intimation dated 18.10.2023, show cause notice dated 19.11.2023 and by offering a personal hearing.

4. On perusal of the impugned order, it is evident that the tax proposal related to the disparity between the sales turnover and the purchase turnover. Such proposal was confirmed because the tax

payer failed to file objections or attend the personal hearing. By taking into account the assertion that such non participation was on account of not being aware of proceedings, the interest of justice warrants reconsideration by putting the petitioner on terms.

5. For reasons aforesaid, the impugned order dated 27.12.2023 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. W.P.No.17823 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19579 and 19580 of 2024 are closed.

24.07.2024

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

To

The Deputy State Tax Officer,
Krishnagiri – II, Circle,
Hosur Division,
Tamil Nadu.

SENTHILKUMAR RAMAMOORTHY,J

rna

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