IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **29.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18127 of 2024
and W.M.P.Nos.19921, 19922 & 20602 of 2024

Tvl. Lakshmi Paints
Represented by its Proprietor
Mr.Balakrishnan Kumaran
No.8, Dames Road, Mount Road,
Chennai 600 002. ... Petitioner

-vs-

1.The Deputy State Tax Officer-I,
Chintadripet Assessment Circle
Station: 1st Floor, Greams Road, Chennai 600 006.

2.The Branch Manager,
Axis Bank – Triplicane Branch
No.35B, Old No.17,
Kuppus Nest, Bharathi Salai,
Narayana Krishnaraja Puram,
Triplicane, Chennai 600 005.

3.The Branch Manager,
Canara Bank – Chindatripet Branch
No.14, Wallace Road, Chindatripet,

Chennai 600 002. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for records of the impugned order passed in GSTIN 33ANLPK2020Q1ZX/2017-18 dated 29.12.2023 on the file of the first respondent along with the consequential DRC-07 order under Section 73, Ref.No. ZD331223263134V dated 29.12.2023 on the file of the first respondent and quash the same as illegal, arbitrary against the principles of natural justice and against the law.

For Petitioner : Mr.J.Poojesh

For Respondent 1 : Mr.V.Prashanth Kiran, GA (T)

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ORDER

An order in original dated 29.12.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that the show cause notice and other communications were uploaded on the GST portal and not communicated to the petitioner through any other mode. Consequently, it is stated that the petitioner was unaware of these proceedings until recently.

2. Learned counsel for the petitioner submits that the confirmed tax proposal relates to the difference between the purchase value reflected in the auto populated GSTR 2A and the taxable supply value reflected in the petitioner's GSTR 3B returns. He submits that the petitioner would be in a position to establish that there was no sales suppression by placing on record the stock register and other relevant documents. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prashanth Kiran, learned Government Advocate,

accepts notice for the first respondent. He submits that principles of natural justice were complied with by issuing intimation dated 13.09.2023, show cause notice dated 23.09.2023 and by issuing multiple reminders.

4. On perusal of the impugned order, it appears that the tax proposal was confirmed because the tax payer failed to reply to the show cause notice. It also appears that such tax proposal related to deemed sales by the petitioner. In the affidavit, the petitioner asserts that there was no sales suppression and that the unsold stock is available with the petitioner and would be reflected in the stock register. In these circumstances, re-consideration is necessary 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 (after giving credit to amounts previously debited from the

electronic credit ledger of the petitioner) 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.18127 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19921, 19922 and 20602 of 2024 are closed.

29.07.2024

rna
Index : Yes / No
Internet : Yes / No

Neutral Citation: Yes / No

SENTHILKUMAR RAMAMOORTHY,J

rna

To

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