IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 30.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18272 of 2024
and W.M.P.Nos.20054 & 20055 of 2024

Tvl. Sri Renkanna Steels,
Represented by its Proprietor,
Mr.Prakash Babu (M/A 47 Yrs),
No.26/703, Thiruvottiyur High Road,
Tondiarpet, Chennai 600 081. ... Petitioner

-vs-

The State Tax Officer (FAC)
Tondiarpet Assessment Circle
Integrated Commercial Taxes Building,
Chennai. ... 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 file of the respondent and to quash the impugned order dated 12.02.2024 bearing 33AHKPP2007M1ZB/2018-19 passed by the respondent as arbitrary.

For Petitioner : Mr.J.Ashish

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

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ORDER

An order in original dated 12.02.2024 is assailed on the ground that the tax proposal specified in the show cause notice was for the sum of Rs.1,87,672/- whereas the impugned order confirms a demand of Rs.3,04,348/-. The petitioner asserts that the show cause notice and other communications were uploaded in the "view additional notices" tab on the GST portal and not communicated to the petitioner through any other mode. Therefore, he stated that the petitioner could not participate in proceedings.

2. Learned counsel for the petitioner referred to the summary of

the show cause notice and pointed out that the tax proposal was for a sum of Rs.1,87,672/-. He also submits that only the ASMT 10 notice was annexed thereto and not the detailed show cause notice. He further submits that the confirmed tax demand under the impugned order is for a sum of Rs.3,04,348/-, which is much larger than the sum specified in the show cause notice. He contends that this contravenes sub-section (7) of Section 75 of the applicable GST enactments.

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 12.05.2022, show cause notice dated 11.12.2023 and by issuing multiple reminders. Since the petitioner did not reply to the show cause notice, he submits that no interference is warranted.

4. The petitioner has placed on record the summary of show

cause notice, which specifies a tax proposal of Rs.1,87,672/-. By contrast, the impugned order specifies a confirmed tax demand of Rs.3,04,348/-. Since an amount greater than that specified in the show cause notice was confirmed, sub-section (7) of Section 75 of applicable GST enactments was contravened. At the same time, it should be noticed that the petitioner failed to reply to the show cause notice by showing cause in respect of the sum specified therein. Therefore, it becomes necessary to put the petitioner on terms with regard to the amount specified therein. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 10% of the disputed tax demand mentioned in the show cause notice. In view of a larger amount being confirmed by the impugned order, it is also necessary to provide the petitioner an opportunity to respond thereto.

5. In the facts and circumstances outlined above, W.P.No.18272 of 2024 is disposed of by directing that impugned order dated

12.02.2024 be treated as a show cause notice subject to the petitioner remitting 10% of the amount specified towards the tax component in show cause notice dated 11.12.2023 within ***fifteen days*** from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to reply to the tax proposal in the impugned order. Upon receipt of the petitioner's reply and on being satisfied that 10% of the amount specified in the show cause notice 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 response. No costs. Consequently, W.M.P.Nos.20054 and 20055 of 2024 are closed.

30.07.2024

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

To

The State Tax Officer (FAC), Tondiarpet Assessment Circle
Integrated Commercial Taxes Building, Chennai.

SENTHILKUMAR RAMAMOORTHY,J

rna

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