IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12.07.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18046 of 2024 and
W.M.P.Nos.19816 & 19817 of 2024

ARS Engineering Contractors,
Represented by its Proprietor Perumal Ananthakumar,
No.3, Chengaiah Maistry Street,
Erukkancherry, Chennai-600 118. ... Petitioner

-vs-

The Assistant Commissioner (ST)(FAC),
Kodungaiyur Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai 600 003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the respondent in Reference number: ZD330823142253O/2017-18 dt.24.08.2023 and quash the same as arbitrary and illegal.

For Petitioner : Ms. V.Vijayalakshmi

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

ORDER

An order in original dated 24.08.2023 is challenged 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 until recently because the consultant who was entrusted with GST compliances did not inform the petitioner about these proceedings.

2. Learned counsel for the petitioner submits that the confirmed tax proposal pertains to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. If provided an opportunity, the petitioner would be in a position to explain the mismatch satisfactorily. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural

justice were complied with by issuing intimation dated 11.07.2022, show cause notice dated 03.04.2023 and by issuing a reminder dated 14.06.2023.

4. On perusal of the impugned order, it is evident that the tax proposal was confirmed because the petitioner failed to reply to the show cause notice. 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, albeit by putting the petitioner on terms.

5. For reasons aforesaid, the impugned order dated 24.08.2023 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. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

12.07.2024

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

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To

The Assistant Commissioner (ST)(FAC),
Kodungaiyur Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
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Chennai 600 003.

SENTHILKUMAR RAMAMOORTHY,J

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