IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17895 of 2024
and W.M.P.Nos.19631 & 19634 of 2024

M/s.Maruvur Arasi Logistics Pvt. Ltd.,
Catholic Centre, No.108, II Level,
Armenian Street, Chennai – 600 001
Rep. By its Managing Director D.Bhaskaran ... Petitioner

-vs-

The Deputy State Tax Officer – II,
Harbour Assessment Circle,
No.32, Integrated Commercial Taxes Building
Room No.325, 3rd Floor,
Elephant Gate Bridge Road,
Chennai 600 003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records pertaining to the impugned order under reference dated 25.04.2024

GSTIN: 33AAGCM5859A1ZM/2018-19, passed by the respondent herein and to quash the same, in so far as, the said impugned order had been passed without jurisdiction, authority of law and in clear violation to the principles of natural justice.

For Petitioner : Mr.S.Baskaran

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

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ORDER

An order in original dated 25.04.2024 is assailed in this writ petition on the ground that no personal hearing was granted pursuant to the petitioner's reply dated 17.04.2024. The petitioner received a show cause notice dated 26.12.2023 calling upon the petitioner to show cause *inter alia* in respect of the disparity between the petitioner's GSTR 3B and GSTR 1 returns. By reply dated 17.04.2024, the petitioner stated that further time is required till

30.04.2024 on account of the recent closure of the financial year entailing verification of stocks, closure of books of accounts, etc. The impugned order was issued in these facts and circumstances on 25.04.2024.

2. Learned counsel for the petitioner submits that the entire liability was discharged, albeit by paying a sum of Rs.33,748/- from and out of IGST and sums of Rs.1,11,798.64/- each from CGST and SGST respectively. By referring to the tables at pages 138 and 139 of the typed set, learned counsel submits that it evidences that the petitioner has discharged the entire tax dues. He also submits that the respondents could have offered a personal hearing to the petitioner after receipt of the reply dated 17.04.2024 and before issuing the impugned order. Without prejudice, 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 respondent. He submits that principles of natural justice were complied with by issuing show cause notice dated 26.12.2023 and by offering a personal hearing on 09.01.2024, 29.02.2024 and 05.04.2024. As regards the petitioner's reply, by referring to such reply, learned counsel points out that the petitioner merely requested for additional time till 30.04.2024. He also points out that the said reply was extracted in the impugned order.

4. In the affidavit in support of this writ petition, particularly ground (j) and (k) thereof, the petitioner has explained the manner in which the tax liability was discharged. By reply dated 17.04.2024, by citing the end of the financial year as the reason, the petitioner requested for further time to reply on merits. Undoubtedly, the petitioner was under an obligation to reply earlier considering that sufficient time was granted, if reckoned from the date of show cause

notice. Nonetheless, without considering the petitioner's response on merits, the impugned order was issued. These facts and circumstances justify re-consideration by putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 25.04.2024 is set aside subject to the condition that the petitioner remits 10% of the disputed tax demand 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 such 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.

6. W.P.No.17895 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19631 and 19634 of 2024 are also closed.

25.07.2024

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

To

The Deputy State Tax Officer – II,
Harbour Assessment Circle,
No.32, Integrated Commercial Taxes Building
Room No.325, 3rd Floor,
Elephant Gate Bridge Road,
Chennai 600 003.

SENTHILKUMAR RAMAMOORTHY,J

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