IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **26.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18310 of 2024
and W.M.P.Nos.20098 & 20099 of 2024

Tvl. Shree Krishna Marketing
Rep. By its Proprietor Sokalalji Mafatlal
439, Main Road, Shevapet,
Salem 636 002
GSTIN: 33AGPPM5752J1ZZ ... Petitioner

-vs-

The Assistant Commissioner (ST),
Sevapet Assessment Circle, Salem. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records of the respondent herein in its impugned order passed by the respondent in the order in GSTIN No.: 33AGPPM5752J1ZZ / 2017-18 dated

10.10.2023 and consequential order U/s 74 with Ref. No.: ZD3310230481209 dated 10.10.2023 for the Tax Period 2017-2018 and quash the same.

For Petitioner : Mrs.R.Hemalatha

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

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ORDER

An order in original dated 10.10.2023 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 GST compliances were entrusted to an auditor. Since all communications were uploaded on the GST portal and not communicated to the petitioner through any other mode, it is submitted that the petitioner was unable to participate in proceedings and contest the tax demand on merits.

2. Learned counsel for the petitioner submits that the confirmed tax proposal pertains to a mismatch between the petitioner's GSTR 3B and GSTR 1 returns. She also submits that the petitioner would be in a position to explain the mismatch satisfactorily if provided an opportunity. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the dispute 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 07.06.2023, show cause notice dated 01.09.2023 and by offering a personal hearing.

4. On examining the impugned order, it is evident that the tax

proposal was confirmed because the tax payer failed to pay taxes or reply to the show cause notice. By taking into account the assertion that non participation was on account of not being aware of proceedings, the interest of justice warrants that an opportunity be provided to the petitioner to contest the tax demand on merits by putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 10.10.2023 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.18310 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.20098 and 20099 of 2024 are closed.

26.07.2024

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

To

The Assistant Commissioner (ST),
Sevapet Assessment Circle, Salem.

SENTHILKUMAR RAMAMOORTHY,J

rna

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