IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **31.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18491 of 2024
and W.M.P.Nos.20270 & 20271 of 2024

Tvl. N.Manivannan ... Petitioner

-vs-

The State Tax Officer,
Mannargudi Assessment Circle,
C.T.Buildings, Mannargudi,
Tiruvarur District. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in GSTIN: 33AHHPM2735J1ZC / 2019-2020, dated 11.01.2024 and the demand in GST DRC-07 in Ref.No. ZD3301240531051 dated 11.01.2024 and quash the same as illegal, arbitrary and without authority of law and further direct the respondent to adjust the ITC amount from the electronic credit ledger and release the block made in the credit ledger on 20.07.2023 in Ref. No. BL3307230000879.

For Petitioner : Mr.A.Chandra Sekaran

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

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ORDER

An order in original dated 11.01.2024 is challenged in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The electronic credit ledger of the petitioner was blocked on 20.07.2023. Subsequent thereto, the petitioner received intimation dated 11.08.2023 and show cause notice dated 18.12.2023 calling upon the petitioner to show cause in respect of supplies received from two suppliers. The petitioner replied to the intimation on 25.08.2023 and to the show cause notice on 26.12.2023. By such replies, the petitioner stated that he is willing to reverse Input Tax Credit in relation to supplies received from the two suppliers referred to in the show cause notice provided the blocked credit is released. The order impugned herein was issued in these facts and circumstances.

2. Learned counsel for the petitioner submits that the petitioner was unable to utilize the credit available in the electronic credit ledger since the same was blocked on 20.07.2023. Consequently, he submits that the petitioner requested the respondent to release the blocked credit so as to enable reversal in respect of the two suppliers mentioned in the show cause notice. He seeks another opportunity to contest the matter insofar as interest and penalty is concerned. He points out that the entire tax demand, including penalty, was recovered from the petitioner's bank account.

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 27.07.2023, show cause notice dated 18.10.2023 and by offering a personal hearing.

4. On perusal of the impugned order, it is evident that the tax payer's reply was referred to therein. After noticing such reply, no reasons are specified for not acceding to the request to unblock the credit. It is pertinent to notice that liability was imposed on the petitioner under Section 74 of applicable GST statutes. The entire demand under the impugned order was recovered by making appropriations and through remittances by the petitioner. Therefore, revenue interest is fully secured at this juncture. By taking into account the contention that the challenge is limited to interest and penalty, it is just and appropriate that an opportunity be provided to

the petitioner with regard thereto.

5. For reasons aforesaid, impugned order dated 11.01.2024 is set aside only insofar as it pertains to the imposition of penalty and any consequential interest and the matter is remitted for re-consideration. The respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, before issuing a fresh order within ***three months*** from the date of receipt of a copy of this order.

6. W.P.No.18491 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.20270 and 20271 of 2024 are closed.

31.07.2024

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

To

The State Tax Officer,
Mannargudi Assessment Circle,

C.T.Buildings, Mannargudi,
Tiruvarur District.

SENTHILKUMAR RAMAMOORTHY,J

rna

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