IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01.08.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18628 of 2024
and W.M.P.Nos.20429 & 20428 of 2024

Tvl. Abraham Stores
Rep by its Proprietor Laser Johnson Joseph
30, Rajaji St Jayasree Complex, Chengalpattu,
Kancheepuram, Tamil Nadu, 603 001
GSTIN: 33AFKPJ9503L1Z8 ... Petitioner

-vs-

The Assistant Commissioner (ST)
Chengalpattu Assessment Circle,
No.16A, 1st Floor, 1st Main Road, Anna Nagar,
Chengalpattu 603 001. ... 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 in the impugned order in GSTIN: 33AFKPJ9503L1Z8 / 2017-18 dated 20.12.2023 along with consequential order vide Form

GST DRC – 07 with Ref No.: ZD331223154892Q dated 20.12.2023 for the tax period July 2017 to March 2018 and quash the same.

For Petitioner : Mr.S.Rajendran

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

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ORDER

An order in original dated 20.12.2023 is challenged in this writ petition on the ground of breach of principles of natural justice. The petitioner asserts that GST compliances were entrusted to a local auditor, who was unwell during the relevant period. It is also stated that the petitioner did not notice the show cause notice or other communications in view of his limited computer knowledge.

2. Learned counsel for the petitioner contends that the mechanism of reconciliation of GSTR 3B returns and the auto

populated GSTR 2A was not in force during the relevant period. He also submits that the impugned order is barred by limitation under sub-section (10) of Section 73 of the applicable GST enactments. Without prejudice, on instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed 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 19.05.2023, show cause notice dated 28.09.2023 and by sending at least two reminders in respect of a personal hearing.

4. On examining the impugned order, it appears that the tax proposal was confirmed on the ground that the petitioner did not 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 re-consideration subject to putting the petitioner on terms.

5. Therefore, impugned order dated 20.12.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of ***fifteen days*** 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. In view of the assessment order being set aside, the bank attachment is raised.

6. W.P.No.18628 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.20429 and 20428 of 2024 are closed.

01.08.2024

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

To

The Assistant Commissioner (ST)
Chengalpattu Assessment Circle,
No.16A, 1st Floor, 1st Main Road, Anna Nagar,
Chengalpattu 603 001.

SENTHILKUMAR RAMAMOORTHY,J

rna

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