IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **02.08.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18673 of 2024
and W.M.P.Nos.20474 & 20475 of 2024

Tvl. Kanagaraj Ashokkumar,
Proprietor R.K.Agencies,
1/106, N.Chandrapuram North Street,
Chinnanegamam, Pollachi 642 120. ... Petitioner

-vs-

The Deputy State Tax Officer-2,
Pollachi (Rural) Assessment Circle,
Pollachi 642 001. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the respondent in his proceedings in GST33AWUPA2070J1ZK / 2019-20 dated 16.03.2024 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan

For Respondent : Mrs.K.Vasanthamala, GA (T)

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ORDER

An order in original dated 16.03.2024 is challenged in this writ petition on the ground of breach of principles of natural justice. The petitioner was a recharge distributor for Airtel. The petitioner's GST registration was cancelled by order dated 21.04.2022 with effect from 01.04.2022. Consequently, the petitioner states that he was not monitoring the GST portal on an on going basis. In those circumstances, it is stated that the petitioner could not respond to the show cause notice or participate in proceedings.

2. Learned counsel for the petitioner submits that the confirmed tax proposal relates to the mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. Since the only supplier

was Airtel, learned counsel contends that it is unlikely that there will be any disparity between the Input Tax Credit (ITC) available and that availed of. He seeks another opportunity to contest the tax demand on merits. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She submits that principles of natural justice were complied with by issuing show cause notice dated 16.11.2023 and by offering a personal hearing.

4. The petitioner has not placed on record the detailed show cause notice. From the summary of show cause notice and the impugned order, it is not possible to discern the nature of the tax proposal. Nonetheless, it is stated in the affidavit that the tax proposal relates to the mismatch between the petitioner's GSTR 3B

returns and the auto populated GSTR 2A. Especially by taking into account the fact that the petitioner's GST registration was cancelled by order dated 21.04.2022 with effect from 01.04.2022, the interest of justice warrants the provision of an opportunity to the petitioner to contest the tax demand on merits, albeit by putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 16.03.2024 is set aside on 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 the petitioner's 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.18673 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.20474 and 20475 of 2024 are closed.

02.08.2024

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

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To

The Deputy State Tax Officer-2,
Pollachi (Rural) Assessment Circle,
Pollachi 642 001.

SENTHILKUMAR RAMAMOORTHY,J

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