IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01.08.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18509 of 2024
and W.M.P.Nos.20292, 20293 & 20294 of 2024

Seats India Technics
Represented by its Proprietrix
Mrs.Veronica Durai
No.DP27A, SIDCO Industrial Estate
Thirumazhisai Sub Post Office
Thirumazhisai, Chennai 600 124. ... Petitioner

-vs-

1.The Assistant Commissioner (ST)
Thirumazhisai Assessment Circle,
No.4/109, Integrated Goods and Service Taxes Building
Chennai Bangalore Highways, Nazarathpettai
Chennai 600 123.

2.The Bank Manager,
State Bank of Mysore,
K K Nagar, Chennai
Tamil Nadu 600 078. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for records from the file of the first respondent in impugned order in Reference No. ZD3312231648020 dated 21.12.2023 passed for the Tax Period 2017-2018 and quash the same as illegal, erroneous on facts and violative of principles of natural justice.

For Petitioner : Mr.Narayanasamy
for Mr.N.Sivaprakash

For Respondent 1 : Mr.T.N.C.Kaushik, AGP (T)

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ORDER

An order in original dated 21.12.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner states that the show cause notice dated 27.09.2023 was received and responded to on

26.12.2023. Pursuant thereto, it is stated that an order dated 29.12.2023 was issued. By such order, the petitioner was directed to pay a sum of Rs.5,56,590/-. The said sum was paid on 02.01.2024. Subsequently, upon the bank account of the petitioner being attached, the petitioner became aware for the first time of the order impugned herein. Hence, this writ petition.

2. Learned counsel for the petitioner referred to the payment receipt in respect of the payment of the sum of Rs.5,56,590/- and pointed out that reply dated 26.12.2023 addressed both show cause notice dated 25.09.2023 and 27.09.2023. Since the impugned order was issued without the petitioner being heard, learned counsel seeks another opportunity. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the first respondent. He points out that principles of natural justice were complied with by issuing show cause notice dated 25.09.2023 and a personal hearing notice dated 09.12.2023.

4. The petitioner has placed on record evidence of discharging the entire liability in respect of order dated 29.12.2023. On examining the order impugned herein, it is clear that the tax proposal was confirmed solely on the ground that the tax payer did not file a reply or utilize the personal hearing opportunity. In the facts and circumstances outlined above, the interest of justice warrants re-consideration by putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 21.12.2023 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. 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. In view of the assessment order being set aside, the bank attachment is raised.

6. W.P.No.18509 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.20292, 20293 and 20294 of 2024 are closed.

01.08.2024

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

SENTHILKUMAR RAMAMOORTHY,J

rna

To

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