IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18882 of 2024
and W.M.P.Nos.20729, 20730 & 20732 of 2024

Angels Family Stop Pvt Ltd
Rep by its Director
P.Sureshkumar
Old No.11, New No.19
15th Main Road, Anna Nagar
Chennai 600 040. ... Petitioner

-vs-

1.The State Tax Officer,
Amindakarai Assessment Circle,
No.G-50, First Avenue, Anna Nagar (East)
Chennai 600 102.

2.The Manager,
Tamil Nadu Mercantile Bank Ltd
AC-16, IInd Avenue, Anna Nagar West
Chennai 600 040. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the impugned order of the first respondent passed in GSTIN: 33AAKCA7686F1ZF / 2017-2018 dated 28.12.2023 and quash the same.

For Petitioner : Mr.N.Murali

For Respondent 1 : Mr.V.Prashanth Kiran, GA (T)

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ORDER

An order in original dated 28.12.2023 is challenged on the ground of breach of principles of natural justice. The petitioner states that its GST registration was cancelled on 13.01.2022. Consequently, it is stated that the petitioner was not monitoring the GST portal and did not know about the proceedings culminating in the impugned order because the show cause notice and other communications was uploaded on the "view additional notices and orders" tab in the GST portal.

2. Learned counsel for the petitioner submits that the petitioner was unable to participate in proceedings on account of not being aware of the same. If provided an opportunity, he submits that the petitioner would be in a position to explain that only eligible Input Tax Credit was claimed. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing show cause notice dated 20.09.2023 and by offering a personal hearing to the petitioner.

4. On perusal of the impugned order, it is evident that the tax proposal was confirmed solely on the ground that the petitioner did

not file any objections. As a tax payer whose registration had been cancelled, the petitioner asserted that it did not know about these proceedings because all communications were uploaded on the GST portal. The facts and circumstances outlined above, justify re-consideration subject to putting the petitioner on terms.

5. Therefore, impugned order dated 28.12.2023 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 thereof 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.18882 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.20729, 20730 and 20732 of 2024 are closed.

18.07.2024

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

To

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SENTHILKUMAR RAMAMOORTHY,J

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