IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **31.07.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.19143 of 2024
and W.M.P.Nos.2984, 20986 & 20987 of 2024

Sri Sankeshwara Marketing
Represented by its Managing Partner
Mr.Sahil Kumar, 3rd Floor,
No.27/2, Chhajer Towers,
Walltax Road, Sowcarpet,
Chennai, Tamil Nadu – 600 079. ... Petitioner

-vs-

State Tax Officer (FAC),
Peddunaickanpet Assessment Circle,
Integrated Commercial Building,
No.32, Elephant Gate Bridge Road,
Chennai-600 003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records on the file of the 1st Respondent pertaining to the impugned Order under section 73 and Summary of the order in Form GST DRC-07 all dated 26.12.2023 having Reference No.ZD331223205514Z in GSTIN/ID

33ABRFS4168D1ZZ for the tax period July 2017 to March 2018 relating to Financial Year 2017-18 and quash the same as illegal, arbitrary and in violation of principles of natural justice and also issue appropriate direction to the respondent to raise the attachments and lien issued vide Notice dated 15.04.2024 in GSTIN/ID:33ABRFS4168D1ZZ.

For Petitioner : Mr.V.Veeraraghavan

For Respondent : Mr.V.Prashanth Kiran, Govt. Adv. (T)

ORDER

An order in original dated 26.12.2023 is assailed in this writ petition both on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits and on the ground that the show cause notice and other communications are unsigned. The petitioner asserts that he was unaware of proceedings culminating in the impugned order until his bank account was attached. Consequently, it is stated that the petitioner could not participate in proceedings by responding to the show cause notice.

2. Learned counsel for the petitioner referred to the show cause notice and impugned order and pointed out that these documents are not signed

either physically or digitally. He contends that this vitiates the proceedings. He also contends that the petitioner did not indulge in sales suppression and that liability cannot be imposed in respect of sales suppression merely on account of the disparity between the purchase value as per GSTR 2A and outward supply value. He points out that a sum of Rs.9,12,500/- was appropriated from the petitioner's bank account and that this amount constitutes about 90% of the tax component. He also points out that a further sum of Rs.5,36,254/- was debited from the petitioner's electronic credit ledger.

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 intimation dated 09.09.2023, show cause notice dated 19.09.2023 and by offering more than one opportunity for a personal hearing.

4. On examining the impugned order, it is evident that tax liability was imposed on the differential value of Rs.59,58,385/- between the

purchase value reflected in the auto-populated GSTR 2A and the outward supply turnover reported in the petitioner's GSTR 3B returns. Such liability was imposed in respect of a dealer who filed returns. By taking into account the assertion that the petitioner could not participate in proceedings on account of not being aware of the same, in the factual context of a confirmed tax demand on the basis of deemed sales, the interest of justice warrants reconsideration. In this connection, it should be noticed that a sum of Rs.9,12,593.74 was appropriated from the petitioner's bank account and it is further asserted that an additional sum of Rs.5,36,254/- was debited from the electronic credit ledger of the petitioner. Therefore, at this juncture, revenue interest stands substantially secured.

5. For reasons aforesaid, the impugned order dated 26.12.2023 is set aside and the matter is remanded for reconsideration. The petitioner is permitted to submit a reply to the show cause notice within a period of two weeks from the date of receipt of a copy of this order. Upon receipt thereof and on verifying the appropriations made from the petitioner's bank account, 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. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

31.07.2024

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

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SENTHILKUMAR RAMAMOORTHY,J

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To

State Tax Officer (FAC),
Peddunaickanpet Assessment Circle,
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