IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01.08.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.19335 of 2024
and W.M.P.Nos.21195 & 21196 of 2024

M/s.Amman Agencies,
GSTIN:33AEGPN3039J1ZJ,
Represented by its Proprietor
Ayyasamy Nagarajan,
13A, Sivajee Colony, Ram Nagar,
Edayarpalayam, Coimbatore-641 025. ... Petitioner

-vs-

The State Tax Officer
Velandipalayam Circle,
Commercial Tax Buildings,
Dr. Balasundaram Road,
Coimbatore - 641 018. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records pertaining to the impugned assessment order in Form GST DRC 07 bearing reference number ZD331223122704W/2017-18 dated 18.12.2023, issued by the Respondent and quash the same.

For Petitioner : Mr.C.Derrick Sam

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

ORDER

An order in original dated 18.12.2023 is assailed on the ground of breach of principles of natural justice and on the ground that the petitioner's annual return was not taken into consideration. The petitioner asserts that he was unaware of proceedings culminating in the impugned order because the show cause notice and other communications were merely uploaded in the "View Additional Notices and Orders" tab on the GST portal and not communicated to the petitioner through any other mode. In view thereof, it is stated that the petitioner could not contest the tax proposal on merits.

2. Learned counsel for the petitioner submits that the tax proposal arose out of an inadvertent error committed by the petitioner while filing the GSTR 3B returns in as much as the petitioner erroneously filled up the column pertaining to 'Input Tax Credit (ITC) on Reverse Charge Mechanism (RCM)' instead of the column pertaining to 'All other ITC". He also points out that this error was rectified while filing the annual return in Form GSTR

9. 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.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that ASMT 10 notice was issued upon scrutiny of returns on 07.07.2023. He also points out that an intimation dated 19.09.2023, show cause notice dated 25.09.2023 and personal hearing notice dated 29.09.2023 were issued. Consequently, he submits that principles of natural justice were complied with.

4. The petitioner has placed on record the relevant GSTR 3B return and the annual return. *Prima facie*, it appears that the petitioner corrected the error committed in the GSTR 3B returns in the annual return. On account of not participating in proceedings, these facts were not placed before the respondent. In these circumstances, albeit by putting the petitioner on terms, reconsideration is necessary.

5. Therefore, the impugned order dated 18.12.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of two weeks 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.

6. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

01.08.2024

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

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SENTHILKUMAR RAMAMOORTHY,J

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To

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