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W.P.No.19031 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.19031 of 2024
and W.M.P.Nos.20878 & 20879 of 2024

Tvl.T.Arivazhagan,
Works Contractor,
No.131/1-C,
Brahmin St, Moonjurput,
Vellore – 632 120.

... Petitioner

-VS-

The Deputy State Tax Officer, Vellore (Rural),
Office of Commercial Tax Officer, Vellore (Rural),
No.4, Bharathiyar Salai,
Fort Round Road, Vellore – 632 001.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the files of the impugned proceedings of the respondent in Order No. GSTIN/33AGJPA2486K1ZE/2022-23 dated 24.07.2023 along with



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consequential order in Form GST DRC-07 bearing a Ref. No. ZD3307230983357 dated 24.07.2023 for the tax period April, 2022 to September, 2022 and quash the same.

For Petitioner : Mrs.R.Hemalatha

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

ORDER

An assessment order dated 24.07.2023 is assailed both on the ground of not providing the petitioner a reasonable opportunity to contest the tax demand on merits and also on the ground that the impugned order travels beyond the show cause notice. The petitioner asserts that he was unable to participate in proceedings culminating in the impugned order because GST compliances were entrusted to an auditor and the said auditor was critically unwell during the relevant period.

2. Learned counsel for the petitioner referred to the show cause



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notice and pointed out that the tax liability proposed therein was an aggregate sum of Rs.10,45,870/-, whereas the confirmed tax demand under the impugned order is about Rs.20,08,000/-. On instructions, she submits that the petitioner agrees to remit 10% of the disputed tax demand as per the show cause notice.

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 20.02.2023 and show cause notice dated 26.04.2023. He also points out that the confirmed tax proposal relates to a longer period and that the data was derived from the GSTR 7 returns filed by the tax deductors.

4. On comparing the show cause notice and the impugned order, the contention of learned counsel for the petitioner that the impugned order travels beyond the scope of the show cause notice is liable to be accepted. It is also clear that the tax proposal was



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confirmed because the tax payer did not file objections to the show cause notice. By taking into account the assertion that such non participation was on account of a medical emergency relating to the auditor, the interest of justice warrants re-consideration. The petitioner shall pay 10% of the disputed tax demand as per the show cause notice as a condition for remand.

5. For reasons aforesaid, impugned order dated 24.07.2023 shall be treated as a show cause notice and the petitioner is permitted to respond thereto within a period of *fifteen days* from the date of receipt of a copy of this order. This is subject to the condition that the petitioner shall remit 10% of the disputed tax demand specified in the show cause notice within the aforesaid period. Upon receipt thereof and on being satisfied that the pre-deposit was made in the manner indicated above, 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.



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WEB COPY 6. W.P.No.19031 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.20878 and 20879 of 2024 are closed.

02.08.2024

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

The Deputy State Tax Officer, Vellore (Rural),
Office of Commercial Tax Officer, Vellore (Rural),
No.4, Bharathiyar Salai,
Fort Round Road, Vellore – 632 001.

SENTHILKUMAR RAMAMOORTHY,J

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