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.19235 of 2024
and W.M.P.Nos.21095 & 21097 of 2024

Tvl. AVR Commodities,
Rep. by its Proprietor V. Rajendran Kavitha,
3/222E, Nelli Thoppu, Dharapuram Road,
Gudimangalam, Tiruppur,
Tamil Nadu - 642 201,
GSTIN - 33AUMPK1074E1ZV ... Petitioner

-vs-

The Assistant Commissioner (ST),
Udumalpet (North) Circle,
Udumalpet. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the Respondent herein in its Impugned Order passed by the Respondent in Order in GSTIN: 33AUMPK1074E1ZV/2017-18 dated 28.12.2023 along with the Consequential Order in Ref. No. ZD331223291053T dated 31.12.2023 for the Period 2017-2018 and quash the same.

For Petitioner : Ms.R.Hemalatha

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

ORDER

An order in original dated 28.12.2023 is assailed in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that the show cause notice and other communications were uploaded on the common portal and not served on the petitioner through any other mode. Consequently, it is stated that the petitioner was unaware of proceedings until recently.

2. Learned counsel for the petitioner submits that the tax proposal arose out of a clerical error made by the petitioner while reporting inward Input Tax Credit (ITC) in column 4(3) instead of column 4(5). If provided an opportunity, learned counsel submits that the petitioner would be in a position to establish that only eligible ITC was claimed. 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 proceedings were initiated

against the petitioner pursuant to a scrutiny under Section 61. He also points out that principles of natural justice were complied with by issuing show cause notice dated 30.09.2023 and by issuing reminder dated 09.12.2023.

4. On examining the impugned order, it is evident that the tax proposal was confirmed solely on the ground that the tax payer failed to provide an explanation upon receipt of show cause notice. The petitioner contends that the tax proposal arose on account of an inadvertent error while filling the GSTR 3B return. In addition, it is stated that the petitioner could not participate in proceedings because of being unaware of the same. These facts and circumstances justify a remand subject to putting the petitioner on terms.

5. For reasons set out above, the 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 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.

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

The Assistant Commissioner (ST),
Udumalpet (North) Circle,
Udumalpet.

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