IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **31.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.19271 of 2024
and W.M.P.Nos.21134 & 21135 of 2024

Tvl. Agam Shri Coco Products,
Represented by its Partner Mr.S.Dhanbal,
No.4/415, NA, Nallampalli,
Pollachi 642 107
Tamil Nadu GSTIN : 33AAQFA9608L1Z0. ... Petitioner

-vs-

The State Tax Officer,
Office of the Commercial Tax Officer,
Udumalpet (South) Assessment Circle,
Coimbatore Division, 2nd Floor,
Perundurai, No.144-B, Kandasamy Complex,
Chirtrakoodam, Kalpana Theatre Road,
Udumalpet-642 126. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records on the files of the respondent the impugned proceedings for the Assessment year 2017-18 in GSTIN:33AAQFA9608L1Z0/2017-18 dated 18.04.2023 and the consequential DRC-07 order bearing Ref. No.ZD330423083013W dated 18.04.2023, and quash the same.

For Petitioner : Ms.R.Hemalatha

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

ORDER

An order in original dated 18.04.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that he was unaware of proceedings culminating in the impugned order because all communications were uploaded on the common portal and not communicated to the petitioner through any other mode.

2. Learned counsel for the petitioner submits that the petitioner had correctly reported the taxable exempted turnover in the GSTR 1 and GSTR 9 returns. However, while filing the GSTR 3B return, it is stated that the total taxable turnover was erroneously reported as Rs.77,39,136/-, which includes the exempted supply value of Rs.38,97,070/-. If provided an opportunity, learned counsel submits that the petitioner would be in a position to

reconcile the disparity between the GSTR 3B returns and the GSTR 1 and 9 returns. On instructions, learned counsel submits that the petitioner agrees to remit 15% 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 intimation dated 25.11.2022, show cause notice dated 31.12.2022 and by issuing a personal hearing notice. By referring to the impugned order, he also points out that the intimation was also issued by registered post with acknowledgment due, and that the same was received by the petitioner on 08.12.2022.

4. On examining the impugned order, it is clear that the tax proposal was confirmed because the tax payer failed to reply to the show cause notice or participate in the personal hearing. In the affidavit in support of the writ petition, the petitioner asserts that an inadvertent error was committed while filing the GSTR 3B returns in as much as the total turnover was reported as Rs.77,39,136/-, which includes the exempted supply value of

Rs.38,97,020/-. By taking this contention into account as also the assertion that the petitioner could not participate in proceedings because of being unaware of the same, the interest of justice warrants reconsideration subject to imposing terms on the petitioner.

5. For reasons aforesaid, the impugned order dated 18.04.2023 is set aside on condition that the petitioner remits 15% 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 15% 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

kj

To

The State Tax Officer,
Office of the Commercial Tax Officer,
Udumalpet (South) Assessment Circle,
Coimbatore Division, 2nd Floor,
Perundurai, No.144-B, Kandasamy Complex,
Chirtrakoodam, Kalpana Theatre Road,
Udumalpet-642 126.

SENTHILKUMAR RAMAMOORTHY,J

kj

W.P.No.19271 of 2024
and W.M.P.Nos.21134 & 21135 of 2024

31.07.2024