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.21075 of 2024
and W.M.P.Nos.23019 & 23021 of 2024

Tvl. Sri Mariamman Blue Metals,
Represented by its Proprietor,
Karuppusamy Ravi,
4/142/125, Thoppampalayam,
Mettupalayam Road,
Bavanisagar, Sathyamangalam,
Tamil Nadu – 638 461. ... Petitioner

-vs-

1. The Deputy State Tax Officer,
Sathyamangalam, Erode, Tamil Nadu.

2. The Deputy Commercial Tax Officer,
Sathyamangalam, Erode, Tamil Nadu. ... Respondents

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 1st Respondent herein in GSTIN. No. 33AETPR7635B1Z9/2018-2019 dated 08.02.2024 and quash the same.

For Petitioner : Mr.A.N.R.Jayaprathap

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

ORDER

An order in original dated 08.02.2024 is assailed on the ground of breach of principles of natural justice. The petitioner asserts that GST compliances were entrusted to an auditor because the petitioner lacks proficiency in computer operations. Since all the communications were uploaded on the GST portal, the petitioner submits that he was unaware of proceedings and could not participate in the same.

2. Learned counsel for the petitioner submits that the confirmed tax proposal pertains to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. If provided an opportunity, he contends that the petitioner would be in a position to explain the mismatch satisfactorily, including by complying with the requirement of Circular No.183. 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 respondents. He submits that notice in Form ASMT 10 was issued on 04.08.2023 upon scrutiny of petitioner's returns. Thereafter, intimation dated 19.09.2023 and show cause notice dated 27.09.2023 were issued. Therefore, he submits that principles of natural justice were complied with.

4. On perusal of the impugned order, it is evident that the tax proposal was confirmed solely on account of the tax payer not filing objections to the show cause notice. By taking into account the assertion in the affidavit that non participation in proceedings is on account of not being aware of the same, the interest of justice warrants that an opportunity be provided to the petitioner to contest the tax demand on merits, albeit by putting the petitioner on terms.

5. For reasons aforesaid, the impugned order dated 08.02.2024 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 1st 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

1. The Deputy State Tax Officer,
Sathyamangalam, Erode, Tamil Nadu.

2. The Deputy Commercial Tax Officer,
Sathyamangalam, Erode, Tamil Nadu.

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