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W.P.No.14843 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition No.14843 of 2024 and
W.M.P.Nos.16093 & 16096 of 2024

GLAMOUROSE,
Represented by its Partner S.Gayathri,
No.1944, Ground Floor, NA,
18th Main Road, Anna Nagar West,
Chennai-600 040.

.. Petitioner

-VS-

The Commercial Tax Officer,
Koyambedu Assessment Circle,
1st floor, Integrated GST Buildings,
Chennai Bangalore Highway,
Varadarajapuram, Nazarathpet,
Poonamallee, Chennai-600 123.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the Respondent in Reference Number ZD3312231563070 dated 21/12/2023 for the financial year 2017-18 and quash the same as arbitrary, illegal.

For Petitioner : Mr.R.Saravanan

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

ORDER

An order dated 21.12.2023 is assailed on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits. By asserting that the show cause notice and other communications were only uploaded on the GST portal and not communicated to the petitioner through any other mode, the present writ petition was filed.

2. Learned counsel for the petitioner submits that the petitioner would be in a position to explain the mismatch between the petitioner's GSTR 3B return and the GSTR 1 statement if provided an opportunity. On instructions, he submits that the petitioner agrees to remit 10% 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 a notice in Form ASMT 10 dated 31.07.2023, a



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show cause notice dated 26.09.2023 and a personal hearing notice dated 26.09.2023.

4. On examining the impugned order, it is clear that the tax proposal relating to disparity between the petitioner's GSTR 3B return and GSTR 1 statement was confirmed on account of the petitioner not replying to the show cause notice. Since the petitioner asserts that she could not participate in proceedings on account of not being aware of such proceedings, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits by putting the petitioner on terms.

5. Therefore, the impugned order dated 21.12.2023 is set aside and the matter is remanded for reconsideration 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

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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.

14.06.2024

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

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To

The Commercial Tax Officer,
Koyambedu Assessment Circle,
1st floor, Integrated GST Buildings,
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SENTHILKUMAR RAMAMOORTHY,J

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