WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.8490 of 2024
and W.M.P.Nos.9436 & 9440 of 2024

M/s.Sathya Furniture,
Represented by Gurunathan Sankar,
Proprietor,
111/4, Cuddalore Main Road,
North Extension, Ammapet,
Salem 636 003. ... Petitioner

-vs-

Deputy State Tax Officer-1,
Salem Bazaar Assessment Circle,
Pitchards Road, Hasthampathy,
Salem-7. ... 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 respondent in GSTIN: 33BJKPS9135A1Z8 dated

https://www.mhc.tn.gov.in/judis

WEB COPY

29.12.2023 and connected summary of the order in ZD33A223S700580 dated 30.12.2023 and quash the same as being without jurisdiction and in gross violation of principles of natural justice and hence invalid and illegal.

For Petitioner : Mr.V.Srikanth

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

****

ORDER

An order dated 30.12.2023 is assailed *inter alia* on the ground that a personal hearing was not provided to the petitioner.

2. As a registered person under applicable GST enactments, the petitioner had filed returns for the assessment period 2017-18. In relation thereto, the petitioner received a show cause notice dated 25.09.2023. Such show cause notice was replied to on 25.11.2023 by

https://www.mhc.tn.gov.in/judis

WEB COPY

providing an explanation with regard to the reason for discrepancy between the petitioner's GSTR 1 and GSTR 3B returns. By such reply, the petitioner also requested for a personal hearing.

3. Learned counsel for the petitioner submits that in spite of making a express request for a personal hearing, a personal hearing was not provided before the impugned order was issued. He further submits that the petitioner had explained that there was a closing stock value of Rs.23,10,524/- and capital goods value of Rs.10,10,000/- and that these aspects were not taken into account while issuing the impugned order.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. By referring to the impugned order, he points out that the tax demand was confirmed because the petitioner failed to submit supporting documents in respect of the explanation provided in the reply.

https://www.mhc.tn.gov.in/judis

WEB COPY

5. Sub-section (4) of Section 75 of the Tamil Nadu Goods and Services Tax Act, 2017 imposes the obligation of providing a personal hearing either when requested for or when an order adverse to the tax payer is proposed to be issued. In this case, in the reply dated 25.11.2023, the petitioner expressly requested for a personal hearing. Although the petitioner was unable to check the box pertaining to personal hearing while uploading such reply on the GST portal, the statutory obligation would not stand waived on that account. Therefore, the impugned order calls for interference.

6. For reasons set out above, the order dated 29.12.2023 is quashed and the matter is remanded for re-consideration. The petitioner is permitted to submit all relevant documents within ***fifteen days*** from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to provide a reasonable

https://www.mhc.tn.gov.in/judis

WEB COPY

opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within ***two months*** from the date of receipt of documents from the petitioner.

7. W.P.No.8490 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.9436 and 9440 of 2024 are closed.

01.04.2024

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

To

Deputy State Tax Officer-1,
Salem Bazaar Assessment Circle,
Pitchards Road, Hasthampathy,
Salem-7.

https://www.mhc.tn.gov.in/judis

WEB COPY

SENTHILKUMAR RAMAMOORTHY,J

rna

W.P.No.8490 of 2024
and W.M.P.Nos.9436 & 9440 of 2024

01.04.2024

https://www.mhc.tn.gov.in/judis