IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **2902.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.No.4987 of 2024**
**and W.M.P.Nos.5479 & 5481 of 2024**

Iconix Designs
Rep. by its Managing Partner Mr.K.Jayakumar,
No.134A, Balaji Arcade Apartments,
Arcot Road, Virugambakkam,
Chennai 600 092. ... Petitioner

-vs-

The State Tax Officer,
K.K.Nagar Assessment Circle,
PAPJM Annexe Building,
No.1, Greams Road,
Chennai 600 006. ... Respondent

**PRAYER**: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the respondent in Reference Number: ZD330923062275D dated 12.09.2023 and quash the same as arbitrary, illegal.

For Petitioner : Ms.V.Vijayalakshmi
for Mr.S.Ramanan

For Respondent : Mr.C.Harsha Raj, AGP (T)

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**ORDER**

An assessment order dated 12.09.2023 is challenged primarily on the ground of breach of principles of natural justice. The petitioner submits that the Managing Partner was admitted in hospital in April 2023 on account of coronary artery disease and, therefore, the petitioner was unable to respond to the intimation and show cause notice which preceded the assessment order. Hence, it is submitted that the petitioner was deprived of an opportunity to place relevant documents on record and make submissions before the assessing officer.

2. In order to buttress the above contention, learned counsel for the petitioner refers to the discharge summary issued by the hospital on 25.04.2023. On instructions, she submits that the petitioner is ready and willing to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. By referring to the impugned order, he points out that such order was preceded by an intimation dated 16.11.2023, a show cause notice dated 21.11.2023 and several personal hearing notices.

4. The discharge summary placed on record by the petitioner indicates that the petitioner suffered a heart attack sometime in early 2023. The show cause notice was issued on 20.01.2023 and the

personal hearing notices appear to have been issued in February and March 2023. Undoubtedly, the documents on record indicate that the petitioner did not participate in proceedings culminating in the impugned assessment order. While the respondent cannot be faulted for the petitioner's failure to respond to the show cause notice or the personal hearing notices, in the facts and circumstances, it appears that the petitioner was deprived of an opportunity to contest the tax demand. Solely for this reason, albeit by putting the petitioner on terms, the impugned order calls for interference.

5. Therefore, the impugned assessment order is quashed and the matter is remanded for re-consideration subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to. The petitioner is permitted to submit a reply to the show cause notice within a maximum period of ***two weeks*** from the date of receipt of a copy of this order along with 10% of the disputed tax demand. Subject to receipt of the reply and upon being satisfied that

10% of the disputed tax demand was received, the assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and issue a fresh assessment order within a maximum period of ***two months*** thereafter.

6. W.P.No.4987 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.5479 and 5481 of 2024 are closed.

**29.02.2024**

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

**To**

The State Tax Officer,
K.K.Nagar Assessment Circle,
PAPJM Annexe Building,
No.1, Greams Road,
Chennai 600 006.

**SENTHILKUMAR RAMAMOORTHY,J**

rna

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