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W.P.No.5895 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.5895 of 2024

&

WMP Nos.6526 & 6527 of 2024

Tvl. Orbit Shipping Services
Rep. By its Proprietor Mr.Gengan.
Ld No.111, New No.231
Linghi Chetty Street,
Parrys, Chennai-600 001.

... Petitioner

VS

1. The Assistant Commissioner (ST)(FAC)
Harbour Assessment Circle
Integrated Commercial Taxes Building
No.32, Elephant Gate Bridge Road,
Chennai-600 003.

2. The Branch Manager,
Kotak Mahindra Bank Limited
Dass India Tower, 2nd Line Beach Road,
Parrys, Chennai-600 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the exparte impugned order under reference dated 08.08.2023 in GSTIN:33JKPG1416F1ZR/2022-2023, for the tax



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period FY 2022-23, passed by the 1st respondent herein and to quash the same, in so far as, the said impugned order had been passed without jurisdiction, authority of law and in clear violation to the principles of natural justice, with a consequent direction to the 1st respondent to refund the amount of Rs.9,17,238/- to the credit of the bank account no.7911724766 of the petitioner, maintained with the 2nd respondent bank.

For Petitioner : Mr.S.Baskaran

For Respondents : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

ORDER

The order dated 08.08.2023 is assailed on the ground of breach of principles of natural justice.

2. The petitioner is engaged in the business of customs clearance and is a registered person under applicable GST enactments. According to the petitioner, he was unaware of proceedings culminating in the impugned order until he received a communication from the second respondent herein with regard to the bank account of the petitioner being debited in a sum of Rs.9,17,238/- . The present writ petition was filed in the said facts and



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circumstances.

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3. Learned counsel for the petitioner invited my attention to the impugned order and pointed out that no personal hearing was offered to the petitioner and that the statement to the effect that a personal hearing was offered on 14.06.2023 is incorrect. He also points out that the entire demand of Rs.9,17,238/-, which includes a sum of Rs.3,11,982/- towards interest/penalty, was recovered from the petitioner's bank account.

4. At the previous hearing, Mr.V.Prasanth Kiran, learned Government Advocate, requested for time to obtain instructions as to whether the above mentioned amount was indeed appropriated by the first respondent. At today's hearing, he affirms that the said amount was appropriated.

5. In view of the sum of Rs.9,17,238/- having been



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appropriated, revenue interest is fully secured. The documents on record clearly indicate that the petitioner was not heard before the impugned order was issued. Therefore, the impugned order calls for interference.

6. Hence, the impugned order dated 08.08.2023 is quashed. The petitioner is permitted to submit a reply to the show cause notice dated 05.06.2023 within a maximum period of two weeks from the date of receipt of a copy of this order. Upon receipt thereof, the assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh assessment order within two months. The amounts appropriated by the first respondent pursuant to the attachment of the petitioner's bank account shall abide by the outcome of the remand proceedings.

7. Consequently, W.P.No.5895 of 2024 is disposed of on the



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above terms and connected miscellaneous petitions are closed. No costs.

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Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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SENTHILKUMAR RAMAMOORTHY J.

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