



WEB COPY



W.P.No.7822 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.7822 of 2024
and W.M.P.Nos.8768 & 8771 of 2024

M/s.Vel Steel Tubes and Engineering Pvt. Ltd.
187/1A-5A, Rep. by its Director D.Subbiah,
Thiruinravur to Periyapalayam Road,
Pakkam Village, Tiruvallur
Tamil Nadu 602 024.

... Petitioner

-vs-

The Assistant Commissioner (ST)
Thirumazhisali Assessment Circle,
4/109, 2nd Floor,
Bangalore - Chennai Highway
Varadarajapuram, Nazhrarthpet
Chennai 600 123.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records culminating into Order dated 09.10.2023 bearing GSTIN 33AACCV8374M1ZS/2018-19 and quash the same.



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WEB COPY For Petitioner : Mr.T.Mohan, Sr. Adv.
for Mr.Adithya Reddy

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

ORDER

An assessment order dated 09.10.2023 is challenged on the ground that personal hearing was not offered after receipt of the petitioner's reply. In respect of assessment year 2018-19, the petitioner received an intimation in Form GST DRC-01A on 22.12.2022. Such intimation was replied to by the petitioner on 20.06.2023. After issuing a show cause notice on 17.04.2023, the impugned assessment order was issued on 09.10.2023.

2. Learned senior counsel for the petitioner relied on sub-section (4) of Section 75 of the Tamil Nadu Goods and Services Tax



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Act, 2017 and contended that a personal hearing is mandatory either if requested for or if an order adverse to the taxpayer is proposed to be issued. By pointing out that no personal hearing was offered subsequent to the petitioner's reply on 20.06.2023, he contends that the assessment order is vitiated for failure to comply with such mandatory requirement. He also points out that there was complete non application of mind especially while dealing with defect no.5. After pointing out the defect no.5 pertains to alleged supply from unregistered persons, he points out that the finding pertains to difference noticed between the balance sheet and GSTR 2A. Since the order was issued without application of mind to the materials on record, he submits that re-consideration is required.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. By referring to the impugned assessment order, he points out that the petitioner was provided multiple opportunities to contest the tax demand in the form of



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intimation, show cause notice and the personal hearing opportunities provided even after the issuance of the show cause notice.

4. The documents on record include the petitioner's reply on 20.06.2023 and a subsequent e-mail of 23.08.2023 along with the attachments thereto. Such reply was referred to in the impugned order and treated as a reply to the show cause notice. Although the petitioner is not blameless in as much as much as the petitioner did not reply to the intimation within a reasonable time or reply to the show cause notice, in view of breach of the mandatory requirement of sub-section (4) of Section 75, the impugned order calls for interference.

5. For reasons set out above, the impugned order dated 09.10.2023 is quashed and the matter is remanded for reconsideration. The petitioner is permitted to submit any documents in support of the reply within a maximum period of *two weeks* from



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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* from the date or receipt of the petitioner's reply.

6. W.P.No.7822 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.8768 and 8771 of 2024 are closed.

25.03.2024
(3/3)

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

To

The Assistant Commissioner (ST)
Thirumazhisali Assessment Circle,
4/109, 2nd Floor,
Bangalore - Chennai Highway
Varadarajapuram, Nazhrarthpet
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SENTHILKUMAR RAMAMOORTHY,J

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