



W.P.No.8247 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8247 of 2024

and

W.M.P.No.9208 of 2024

Unique Marine,
Rep.by its Partner P.K.Narayanamoorthy,
No.19/10, Uni Chambers Second floor,
Tank Street,
Chennai – 600 013.

... Petitioner

Versus

1.Assistant Commissioner,
Muthialpet Assessment Circle,
Integrated Commercial Taxes Office Complex,
Chennai – 600 003.

2.Axis Bank,
No.12, 80 Feet Road,
Sathya Garden,
Saligramam,
Chennai – 600 093.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorari mandamus, to call for the records of the first respondent in the proceedings initiated in 33AAEFU8088Q1ZA dated 06.02.2024 and quash the same as arbitrary, unjust and illegal and further direct the 1st respondent in



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33AAEFU8088Q1ZA dated 06.02.2024.

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For Petitioner : Ms. G. Vardini Karthik

For Respondent : Mr. C. Harsha Raj,
Additional Government Pleader (Tax)

ORDER

In this writ petition, the order in original dated 15.09.2023 and the consequential garnishee order dated 06.02.2024 are challenged.

2. The petitioner is a registered person under applicable GST enactments. Upon scrutiny of the petitioner's returns, notice in Form GST ASMT 10 was issued on 25.04.2023. This was followed by a show cause notice dated 11.07.2023. Since the show cause notice was uploaded on the GST portal, the petitioner asserts that such notice was not brought to the petitioner's notice by GST practitioner, who was entrusted with the GST compliances. The present writ petition was filed in the said facts and circumstances.



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3. Learned counsel for the petitioner submits that the matter relates to a mismatch between the GSTR 1 statement of the supplier and the GSTR 3B returns of the petitioner. By referring to Form GST DRC-01B, which was introduced with effect from 26.12.2022, learned counsel submits that after the introduction of this form, it has become possible for a registered person to reconcile these differences, whereas it was not possible earlier. She also submits that a sum of about Rs.7 lakhs was appropriated from the bank account of the petitioner towards discharge of the entire tax demand.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice on behalf of the respondent. He submits that the petitioner was provided sufficient opportunities and that proceedings were commenced with the issuance of notice in Form ASMT 10.

5. The impugned order discloses that the petitioner was not heard before such order was issued. The admitted position is that the entire tax demand was realized by way of appropriation from the petitioner's bank account. Hence, at this juncture, revenue interest is fully secured. In these



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circumstances, it is just and necessary to provide the petitioner an opportunity to contest the tax demand. Solely for this reason, the order impugned herein call for interference.

6. Therefore, the impugned order dated 15.09.2023 is quashed and the matter is remanded for reconsideration. The petitioner is permitted to file a reply to the show cause notice dated 11.07.2023 within a period of two weeks from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of two months from the date of receipt of the petitioner's reply.

7. The garnishee order has worked itself out and, in any event, in view of the assessment order being quashed, the said bank attachment stands raised. All contentions are left open to the petitioner in the course of remanded proceedings.



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8. The Writ Petition is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petition is also closed.

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Index : No

Speaking Order : Yes

Neutral Citation Case : No

klr

To

1. Assistant Commissioner,
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Chennai – 600 003.

2. Axis Bank,
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Sathya Garden,
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SENTHILKUMAR RAMAMOORTHY, J.,

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