IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8917 of 2024
and W.M.P.Nos.9935, 9939 & 9943 of 2024

Malaysia Metals,
Represented by its Proprietrix,
Mrs.Murshida Banu,
1st floor, 39, Kaveri salai,
Gandhi nagar, Kodungaiyur,
Chennai-600 118. ...Petitioner

Vs.

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

2.The Branch Manager,
Central Bank of India,
165, ALC Complex,
Broadway,
Chennai-600 108. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records in

Reference No.ZD330823158886V/2022-2023 dated 28.08.2023 on the file of the 1st respondent and quash the same as contrary to law, consequently direct the 2nd respondent to defreeze the bank account namely current Account number 3381255227 and all related accounts to the PAN:BZQPB2187P of the petitioner-registered taxable person.

For Petitioner : Ms.V.Vijayalakshmi

For R1 : Mr.T.N.C.Kaushik,
Additional Government Pleader (T)

ORDER

An order dated 28.08.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand.

2. The petitioner is engaged in the business of wholesale and retail trading of unroasted iron pyrites, pig iron and related products. The petitioner asserts that she was unaware of proceedings initiated by issuing notice in Form GST ASMT 10 and show cause notice in Form GST DRC-01. It is further stated that the petitioner became aware of such proceedings only upon receipt of bank attachment notice dated

30.01.2024.

3. Learned counsel for the petitioner submits that the petitioner was entitled to file the annual return for the assessment period 2022-2023 on or before 31.12.2023. Even without waiting for the lapse of such date, it is submitted that the impugned order was issued.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the 1st respondent. He submits that the impugned order discloses that multiple opportunities were provided to the petitioner.

5. The admitted position is that the petitioner was not heard before the impugned order was issued. It is also clear that this situation was a consequence of the petitioner's failure to respond to the notice in Form ASMT 10 and the show cause notice.

6. On instructions, learned counsel for the petitioner submits that the petitioner is willing to remit 10% of the disputed tax demand as a condition for remand.

7. In view of the fact that the petitioner was not heard before the impugned order was issued, the order calls for interference by putting the

petitioner on terms.

8. Therefore, the impugned order dated 28.08.2023 is set aside and the matter is remanded for reconsideration subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of 15 days from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply to the show cause notice within the aforesaid period. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, the 1st 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. As a corollary of the impugned order being set aside, the bank attachment is raised. If any amounts were appropriated from such bank account before the order was issued, such amounts shall be retained subject to the outcome of the remanded proceedings.

9. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are

closed.

03.04.2024

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

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To

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SENTHILKUMAR RAMAMOORTHY,J.

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