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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10622 of 2024 and
W.M.P.Nos.11693, 11694 & 11696 of 2024

Muthu Traders,
Represented by its Proprietor,
K.Muthuraj,
Old door no.41/2, New door no.12,
Telugu Chetty street,
Old Washermenpet,
Chennai-600 021. ...Petitioner

Vs.

1. The Deputy Commercial Tax Officer,
Royapuram Assessment Circle,
No.32, Elephant Gate Bridge Road,
Chennai-600 003.

2.The Assistant Commissioner (State Tax),
Royapuram Assessment Circle,
Integrated Commercial Taxes Building,
No.32, Elephant Gate Bridge Road,
Chennai-600 003.

3.The Branch Manager,
Tamil Nadu Mercantile Bank Limited,
20, Gollawar Agraharam Road,
Old Washermenpet,
Chennai-600 021. .. Respondents

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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.ZD330723035374K/2018-2019 dated 10.07.2023 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 No.8100050310429 of the petitioner-Registered taxable person.

For Petitioner : Mr.S.Ramanan
For RR1 & 2 : Mr.T.N.C.Kaushik, AGP (T)

O R D E R

An order dated 10.07.2023 is challenged in this writ petition on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits.

2. The petitioner states that he is engaged in the business of trading in groceries and allied products. The petitioner asserts that he is not conversant with GST compliances and had engaged a consultant for such purpose. Since the consultant did not inform the petitioner about proceedings culminating in the impugned order, it is stated that the petitioner was unaware of such proceedings.

3. Learned counsel for the petitioner submits that the confirmed tax

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demand pertains to mismatch between the GSTR 3B returns of the petitioner and the auto-populated GSTR 2A. If provided an opportunity, he submits that the petitioner would be able to explain the discrepancy. On instructions, he submits that the petitioner is willing to remit 10% of the disputed tax demand as a condition for remand.

4. Mr. T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for respondents 1 & 2. He points out that the impugned order was preceded by an intimation, show cause notice and a personal hearing notice.

5. On perusal of the impugned order, it is evident that the tax liability pertains to the mismatch between the GSTR 3B returns of the petitioner and the auto-populated GSTR 2A. It is also evident that the tax demand was confirmed because the petitioner failed to reply or appear for the personal hearing. In these circumstances, albeit by putting the petitioner on terms, it is just and necessary to provide an opportunity to the petitioner to contest the tax demand on merits.

6. Solely for such reason, the impugned order dated 10.07.2023 is

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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 two weeks 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 respondents 1 & 2 are directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within three months from the date of receipt of the petitioner's reply. In view of the assessment order being set aside, the consequential bank attachment is raised.

7. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

23.04.2024

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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