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W.P.No.10627 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10627 of 2024 and
W.M.P.Nos.11701, 11702 & 11708 of 2024

Rishab Industries,
Represented by its Proprietor,
Mr.Ratanlal Mukesh Ranka,
57/17, Kanakkar street,
Tondiarpet, Chennai-600 081.

...Petitioner

Vs.

1. The Assistant Commissioner (ST),
Tondiarpet Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.206, No.1275/3 Bridge Road,
Vepery, Chennai-600 003.

2. The Branch Manager,
ICICI Bank Limited,
GA Road, Old Washermenpet,
Chennai-600 021.

.. 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 Number ZD3309230962662/2021-2022 dated 15.09.2023 on the file of the 1st respondent and quash the same as contrary to law, consequently direct the 1st respondent to defreeze the bank account



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namely current Account No.660901509999 of the petitioner-Registered taxable person.

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For Petitioner : Mr.S.Ramanan

For R1 : Mrs.K.Vasanthamala, Govt. Adv. (T)

ORDER

An order dated 15.09.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner is engaged in the business of wholesale and retail trading of plastic scraps and allied items. The petitioner asserts that the consultant engaged for GST compliances did not keep the petitioner informed about proceedings culminating in the order impugned herein.

3. Learned counsel for the petitioner referred to the annual return of the petitioner and pointed out that the discrepancy between the petitioner's GSTR 3B and the auto-populated GSTR 2A is only Rs.19,341/-. If provided an opportunity, he submits that the petitioner would be in a position to explain the discrepancy and contest the tax demand effectively. On instructions, he submits that the petitioner is willing to remit 10% of the disputed tax demand as a condition for



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remand.

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4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the 1st respondent. She points out that the impugned order was preceded by an intimation dated 19.05.2022, a show cause notice dated 08.06.2023 and a personal hearing notice dated 28.06.2023.

5. On perusal of the impugned order, it is clear that Input Tax Credit (ITC) availed of by the petitioner was reversed on account of the disparity between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. The petitioner has placed on record the annual return and learned counsel contended on such basis that the discrepancy is only to an extent of Rs.19,341/-. 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 reasons set out above, the impugned order dated 15.09.2023 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 two weeks from the date of



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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 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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