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W.P.No.12028 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2024

CORAM:

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.12028 of 2024

and

W.M.P.Nos.13126 & 13128 of 2024

Tvl. Rana Granites,

Rep.by its proprietor, Mr. Prakash Choudhary

... Petitioner

Versus

1.The Assistant Commissioner (ST),
Krishnagiri-II Circle,
Hosur Division, Dharmapuri,
Salem, Tamil Nadu.

2.Tvl. Gangambika Granites And Tiles,
133, Sri Ganambika Granites and Tiles,
BH Road, Kadur, Chikkamangaluru,
Karnataka -577 548.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 07.07.2023 in Form GST DRC-07 bearing GSTIN.No.33AKVPC8147P1ZF pertaining to FY.17-18 issued by the 1st respondent and quash the same, and consequently direct the 1st respondent to lift the attachment made against the 2nd respondent vide Letter dated 15.03.2024.



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For Petitioner : Mr. A. Abdul Rahman

For Respondent : Mr. V. Prasanth Kiran, (for R1)
Government Advocate (Tax)

ORDER

An order in original dated 07.07.2023 is challenged on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that he was unaware of proceedings culminating in the impugned order dated 07.07.2023 because the notice and the impugned order were uploaded in the “View Additional Notices and Orders” tab on the GST portal and not communicated to the petitioner through any other mode. The petitioner further asserts that he became aware of proceedings only upon the garnishee proceedings being initiated in March 2024.

3. Learned counsel for the petitioner submits that the confirmed tax proposal pertains to a mismatch between GSTR-3B and the auto-populated GSTR-2A. If provided an opportunity, he submits that the petitioner would



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be in a position to establish that only eligible ITC was availed of. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr. V. Prashanth Kiran, learned Government Advocate, accepts notice on behalf of the first respondent. By referring to the impugned order, learned counsel submits that sufficient opportunity was provided to the petitioner by issuing show cause notice dated 18.05.2023 and by offering personal hearing.

5. On examining the impugned order, it is clear that the confirmed tax proposal pertains to mismatch between the GSTR-3B returns and the auto-populated GSTR-2A. Such tax proposal was confirmed because the petitioner did not reply to the show cause notice. Therefore, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits, albeit by putting the petitioner on terms.

6. For reasons set out above, the impugned order dated 07.07.2023 is set aside and the matter is remanded for reconsideration subject to the



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condition that the petitioner remits 10% of the disputed tax demand as agreed to within two weeks from the date of receipt of a copy of this order.

Within the aforesaid period, the petitioner is permitted to send a detailed reply to the show cause notice by enclosing all the relevant documents.

Upon receipt thereof and upon being satisfied that 10% of the disputed tax demand was received, the respondent is directed to provide a reasonable opportunity, 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 garnishee order is also set aside.

7. The writ petition is disposed of with the above terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

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Index : No

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Neutral Case Citation : No

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