



W.P.No.12540 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.12540 of 2024
and W.M.P.Nos.13689 & 13691 of 2024

M/s.Crystal Granites rep.by
Its Partner Sri M.P.Manoj Kumar
No.308/1, Nagampatti
Madarahalli,
Krishnagiri 635 203.

... Petitioner

-VS-

The Assistant Commissioner (ST),
Krishnagiri II Assessment Circle,
Krishnagiri.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records of the respondent herein in GSTIN: 33AAHFC3903B1Z6/2017-18 and quash the proceeding dated 05.01.2024 passed therein.



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WEB COPY For Petitioner : Mr.B.Raveendran

For Respondent : Mr.V.Prasanth Kiran, GA (T)

ORDER

An order in original dated 05.01.2024 is assailed primarily on the ground of breach of principles of natural justice. By asserting that the show cause notice and impugned order were uploaded on the “view additional notices and order tab of the GST portal” and not communicated to the petitioner through any other mode, the present writ petition was filed.

2. Learned counsel for the petitioner submits that the petitioner was deprived of a reasonable opportunity on account of not being aware of the show cause notice. He further submits that the ingredients of Section 74 of applicable GST enactments are not satisfied in the present case and that the proceedings are barred by



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limitation. Without prejudice, on instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that the impugned order was preceded by a show cause notice and that a personal hearing was offered to the petitioner in November 2023. He further submits that the impugned order was issued under Section 74 of applicable GST enactments and, therefore, proceedings are not barred by limitation.

4. On perusal of the impugned order, it is evident that the tax proposal pertains to mismatches between the GSTR 3B returns of the petitioner and the auto populated GSTR 2A. Such tax proposals were confirmed because the petitioner failed to reply to the show cause notice or attend the personal hearing. Upon considering the facts and circumstances, the interest of justice warrants that the petitioner be



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provided an opportunity to contest the tax demand on merits, albeit by putting the petitioner on terms.

5. For reasons set out above, the impugned order dated 05.01.2024 is set aside, subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to within a maximum period of *two weeks* from the date of receipt of a copy of this order. Within the aforementioned period, the petitioner is also permitted to submit a reply to the show cause notice. 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 to the petitioner, including a personal hearing, and thereafter issue a fresh assessment order within a period of *three months* from the date of receipt of the petitioner's reply. It is

made clear that all contentions are left open to the petitioner, including the contention on limitation.



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6. W.P.No.12540 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.13689 and 13691 of 2024 are closed.

06.06.2024

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

The Assistant Commissioner (ST),
Krishnagiri II Assessment Circle,
Krishnagiri.

SENTHILKUMAR RAMAMOORTHY,J

rna



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