



WEB COPY



W.P.No.12559 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.12559 of 2024
and W.M.P.Nos.13709 & 13711 of 2024

Tvl. KWATRA KARTEEK,
Known as KK International India Ltd
Represented by its Authorized Signatory Mr.Darshan Kwatra
3, 3, Narasingapuram Street, Mount Road,
Chennai – 600 002. ... Petitioner

-VS-

The Assistant Commissioner (ST)(FAC),
Chepauk Assessment Circle,
Commercial Taxes Building,
2nd Floor, Room No.203/248,
Government Village, Nandanam,
Chennai – 35. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records in the files of the respondent for the assessment year 2017-18 in GSTIN



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No. 33ARYPK6300N1ZB dated 28.12.2023 and quash the same is illegal, invalid without jurisdiction and violated the principles of natural justice.

For Petitioner : Mr.D.Vijayakumar

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

ORDER

An order in original dated 28.12.2023 is assailed on the ground of breach of principles of natural justice. The petitioner asserts that he was unaware of proceedings culminating in the order impugned herein because the part time Accountant engaged by the petitioner had not informed the petitioner about these proceedings.

2. Learned counsel for the petitioner submits that the tax proposal arose as a result of the petitioner committing an inadvertent error while filling up Form GSTR 3B. If provided an opportunity, he



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submits that the petitioner would be in a position to establish that the petitioner did not make short payment of GST.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that the impugned order was preceded by show cause notice dated 30.09.2023.

4. On perusal of the impugned order, it appears that the tax proposal pertains entirely to non payment of tax under reverse charge mechanism. Learned counsel for the petitioner pointed out that such tax proposal was a result of the petitioner making an inadvertent error while filling up GSTR 3B returns. In these circumstances, albeit by putting the petitioner on terms, it is just and necessary that the petitioner be provided an opportunity to contest the tax demand on merits.

5. For reasons set out above, the impugned order dated 28.12.2023 is set aside, subject to the condition that the petitioner



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remits 10% of the disputed tax demand as agreed to within a maximum period of *three 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.

6. W.P.No.12559 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.13709 and 13711 of 2024 are closed.

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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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