



W.P.No.12598 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition No.12598 of 2024 and
W.M.P.Nos.13760 & 13762 of 2024

Tvl. Yesem Marketing,
Represented by its Proprietrix,
No.232, Annai Sathiya Nagar Main Road,
Arumbakkam, Chennai-600 106.

... Petitioner

-VS-

The Deputy Commercial Tax Officer,
Arumbakkam Assessment Circle-II,
No.F-50, 2nd floor, First Avenue,
Anna Nagar, Chennai-600 102.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the order of assessment bearing Reference No.ZD331023096404P in DRC07/GSTN/33ACJPT1399J1Z3/2017-2018 dated 17.10.2023 and quash the same as being without jurisdiction, authority of law.



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WEB COPY For Petitioner : Mr.R.Ganesh Kanna

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

ORDER

An order in original dated 17.10.2023 is assailed on the ground of breach of principles of natural justice. The petitioner asserts that she was unable to respond to the show cause notice on account of personal difficulties. Since the petitioner was unable to defend the tax proposal on merits, the present writ petition was filed.

2. Apart from the denial of reasonable opportunity of hearing, learned counsel for the petitioner submits that statutory rules were violated by initiating action entirely on the basis of a mismatch between the GSTR 1 statement and GSTR 3B returns. If provided an opportunity, he submits that the petitioner would be in a position to establish that the tax proposal should be dropped. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.



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3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She points out that the impugned order was preceded by a show cause notice dated 13.03.2023 and about three reminders. She also submits that Rule 88C of the Central Goods and Services Tax Rules, 2017 is inapplicable to the present proceedings and that the said rule would only apply in relation to assessments for the period subsequent to 07.01.2022.

4. On perusal of the impugned order, it is evident that the confirmed tax proposal relates entirely to a mismatch between the GSTR 1 statement and the GSTR 3B return. Such proposal was confirmed because the petitioner did not reply to the show cause notice or attend personal hearing. 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. Solely for reasons set out above, the impugned order dated



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17.10.2023 is set aside and the matter is remanded for reconsideration on 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. Within the aforesaid period, the petitioner is permitted to submit a reply to the show cause notice. Upon receipt of the petitioner's reply and upon being satisfied that the 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 order within a period of three months from the date of receipt of the petitioner's reply.

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

06.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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SENTHILKUMAR RAMAMOORTHY,J

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To

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