IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.No.12723 of 2024**
**and W.M.P.Nos.13893 & 13894 of 2024**

Dynamed Equipments,
A Proprietary Concern,
Mr.C.Surendranath – Proprietor,
No.4 and 5, Dhanarajapuram,
Kolathur, Chennai – 600 099. ... Petitioner

-vs-

The Assistant Commissioner (ST), Intelligence – I,
Avadi Assessment Circle,
Room No.241, 2nd Floor,
No.1, PAPJM Building, Greams Road,
Chennai 600 006. ... Respondent

**PRAYER**: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of respondent in impugned order passed vide Reference No. ZD330224037298I in GSTIN/ID: 33ACMPS1504R1Z6 dated 06.02.2024 for the tax period 2021-22 and quash the same as illegal, arbitrary and violative of principles of natural justice.

For Petitioner : Mr.B.Sivaraman

For Respondent : Mr.C.Harsha Raj, AGP (T)

**ORDER**

An order in original dated 07.02.2024 in respect of assessment period 2021-2022 is challenged both on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits and on the ground that the impugned order travels beyond the scope of the show cause notice. An intimation dated 13.09.2023 was issued to the petitioner in respect of about ten defects. This was followed by show cause notice dated 10.10.2023. The show cause notice also dealt with the above mentioned ten defects in the detailed notice. The petitioner asserts that he was unable to participate in proceedings by responding to the above on account of his Accountant not informing him about the proceedings. The present writ petition was filed in the said facts and circumstances.

2. Learned counsel for the petitioner referred to the show cause notice

in Form DRC-01 and pointed out that the tax proposal is for an aggregate sum of Rs.90,56,129/-. He points out that the detailed notice travels beyond the scope of the summary. By comparing the detailed notice to the impugned order, he points out that even the detailed notice did not refer to interest or penalty liability, whereas the impugned order imposes such liability.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He points out that these proceedings arose out of an inspection conducted in March 2023. He also submits that principles of natural justice were complied with by issuing intimation dated 13.09.2023, show cause notice dated 10.10.2023 and three reminders.

4. On examining the summary of show cause notice and detailed notice, it is clear that the detailed notice deals with ten tax proposals. The said ten tax proposals correspond to those specified in the earlier intimation. It is, however, noticeable that there was no proposal with regard to interest and penalty. In the impugned order, penalty was imposed at 10%. Thus, as

regards interest and penalty, the petitioner did not have an opportunity to respond to the proposal. For such reason, the order calls for interference. Since the petitioner did not respond in spite of several opportunities being provided, it is just and appropriate that the petitioner be put on terms. On instructions, learned counsel for the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

5. For reasons set out above, the impugned order dated 07.02.2024 shall be treated as a show cause notice and the petitioner is permitted to respond thereto within four weeks from the date of receipt of a copy of this order. The petitioner shall also remit 10% of the disputed tax demand within the aforesaid period. Upon receipt thereof and on 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 order within a period of three months from the date of receipt of the petitioner's reply.

6. W.P.No.12723 of 2024 is disposed of on the above terms. No

costs.  Consequently, connected miscellaneous petitions are closed.

**28.06.2024**

Index : Yes / No (2/2)
Internet : Yes / No
Neutral Citation: Yes / No

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To

The Assistant Commissioner (ST), Intelligence – I,
Avadi Assessment Circle,
Room No.241, 2nd Floor,
No.1, PAPJM Building, Greams Road,
Chennai 600 006.

**SENTHILKUMAR RAMAMOORTHY,J**

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(2/2)