IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2024

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition Nos.13406 & 13412 of 2024
and
W.M.P.Nos.14561, 14563, 14571 & 14572 of 2024

M/s.Statex Electronics,
Represented by its Partner,
Mr.Kaliappa Gounder Subramaniam,
E-49, Sidco Industrial Estate,
Kurichi, Coimbatore-641 021. ... Petitioner in both WPs.

-vs-

1. The Commercial Tax Officer,
Podanur, Coimbatore.

2.The Assistant Commissioner (ST)(FAC),
Podanur Circle, Coimbatore. ... Respondents in both WPs.

Prayer in W.P.No.13406 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent culminating in the issue of summary of the order in GST DRC-07 dated 04.10.2023 under Reference

No.ZD331023009705W and the consequent communication dated 06.02.2024 enclosing Notice under Form GST DRC-13 issued by the 2nd respondent to the bank and quash the same as illegal and direct the 1st respondent to pass fresh orders after granting an opportunity of hearing to the petitioner herein.

Prayer in W.P.No.13412 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent culminating in the issue of summary of the order in GST DRC-07 dated 04.10.2023 under Reference No.ZD331023009771X and the consequent communication dated 06.02.2024 enclosing Notice under Form GST DRC-13 issued by the 2nd respondent to the bank and quash the same as illegal and direct the 1st respondent to pass fresh orders after granting an opportunity of hearing to the petitioner herein.

In both WPs.

For Petitioner : Mr.S.Murugappan

For Respondents : Mr.V.Prashanth Kiran, Govt. Adv. (T)

COMMON ORDER

Orders in original dated 04.10.2023 are assailed on the ground of breach of principles of natural justice.

2. The petitioner asserts that he was unaware of proceedings culminating in the orders impugned herein because the show cause notice and the order were uploaded on the GST portal, but not communicated to the petitioner through any other mode.

3. Learned counsel for the petitioner submits that on account of not being aware of proceedings, the petitioner could not contest the tax demand on merits. He seeks an opportunity to do so and submits, on instructions, that the petitioner agrees to remit 10% of the disputed tax demand under each assessment order as a condition for remand.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondents. He points out that the impugned order was preceded by an intimation and a show cause notice. He also pointed out that a personal hearing opportunity was provided to the petitioner.

5. On examining the orders impugned herein, it is evident that the tax proposals were confirmed because the petitioner did not respond to the show cause notice or appear for a personal hearing. Since the petitioner asserts that he was unable to participate on account of not being aware of the proceedings, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits, by putting the petitioner on terms.

6. For reasons set out above, the orders impugned in these writ petitions are set aside and the matters are remanded for reconsideration on condition that the petitioner remits 10% of the disputed tax demand in respect of each assessment. Such remittance shall be made within a

maximum 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 respective show cause notice. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand in respect of each assessment was received, the 1st respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh orders within three months from the date of receipt of the petitioner's reply. As a consequence of the impugned assessment orders being set aside, the bank attachment is raised.

7. These writ petitions are disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

10.06.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

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SENTHILKUMAR RAMAMOORTHY,J

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To

1. The Commercial Tax Officer,
Podanur, Coimbatore.

2.The Assistant Commissioner (ST)(FAC),
Podanur Circle, Coimbatore.

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