



W.P.No.16128 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 02.07.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16128 of 2024
and W.M.P.Nos.17668 & 17670 of 2024

M.Sumitha

... Petitioner

-vs-

1.Deputy State Tax Officer-2,
Ayannavaram Assessment Circle,
F/50, Third Floor, First Avenue,
Anna Nagar (East),
Chennai – 600 102.

2.Commercial Tax Department,
GSTIN: 33CHEC06601A1DL,
Ayanavaram Circle,
F/50, First Avenue, Anna Nagar (East),
Chennai – 600 102.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of



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the 1st respondent relating to the impugned order dated 15.11.2023 passed in Reference No.: ZD331123082259I for the tax period: APR 2019 - MAR 2020 directing the petitioner to make the payment of Rs.19,91,240/-, quash the same as illegal, arbitrary and unconstitutional.

For Petitioner : Mr.C.Kaveen
for Mr.Gokul Vasudev

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

ORDER

An assessment order dated 15.11.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. By asserting that the petitioner is not conversant with GST compliances and had entrusted the same to an accountant, who left the employment of the petitioner, the present



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writ petition was filed.

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2. Learned counsel for the petitioner submits that the petitioner was unable to participate in proceedings because she was handicapped after the accountant left. He also submits that the tax proposal arose out of an inadvertent error committed while filing the GST returns, and that the petitioner would be in a position to explain the mismatch if provided an opportunity. On instructions, learned counsel for the petitioner 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 respondents. He submits that principles of natural justice were complied with by issuing intimation dated 22.07.2022, show cause notice dated 23.01.2023 and by issuing multiple personal hearing notices.



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4. On examining the impugned order, it is evident that the tax proposal pertains to a TDS mismatch between the GSTR 7 return filed by the tax deductor and the GSTR 3B and the GSTR 1 returns of the petitioner. It is also clear that such proposal was confirmed on account of the petitioner not replying to the show cause notice or appearing in person for the hearing. By taking into account the assertion that non participation was on account of the petitioner's ignorance of such proceedings, the interest of justice warrants re-consideration by putting the petitioner on terms.

5. For reasons set out above, impugned order dated 15.11.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within *fifteen days* from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply to the show cause notice within the aforesaid period. Upon receipt of the petitioner's reply and on being satisfied that 10% of the disputed



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tax demand was received, the first respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within *three months* from the date of receipt of the petitioner's reply.

6. W.P.No.16128 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.17668 and 17670 of 2024 are closed.

02.07.2024

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

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F/50, Third Floor, First Avenue,
Anna Nagar (East),
Chennai – 600 102.

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5/6



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SENTHILKUMAR RAMAMOORTHY,J

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