



WEB COPY



W.P.No.14724 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.14724 of 2024
and W.M.P.No.15965 of 2024

Tvl. Sri Ragava Paper

Represented by its Proprietor, Thangapandian Kavitha,
No.25, Futura Business Park, 3rd Street, Avenue,
Kamarajar Street, Chinnasekkadu,
Manali, Chennai, Tamil Nadu 600 068.

... Petitioner

-VS-

1.The Deputy Commissioner (ST) Appeal-I,
O/o. The Deputy Commissioner, GST-Appeal Chennai-I,
3rd Floor, C.T.Annexe Building,
No.1, Greams Road, Chennai 600 006.

2.The Assistant Commissioner (ST),
Manali Assessment Circle,
Walltax Road, Chennai 600 003.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the 2nd respondent order dated 04.09.2023 in Reference Number:

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ZD330923014152V and the records of the 1st respondent pertaining to the impugned order dated 12.04.2024 passed in Spl. Reg.No.22/2024 and quash the same and consequently direct the 2nd respondent to revoke the Demand order of the GST of the petitioner's firm.

For Petitioner : Mr.P.Suresh Babu

For Respondents : Mr.T.N.C.Kaushik, AGP (T)

ORDER

An order in original dated 04.09.2023 and an appellate order dated 12.04.2024 are assailed in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. By stating that the petitioner entrusted GST compliances to an Accountant and that such Accountant did not inform the petitioner about proceedings, the present writ petition was filed.

2. Learned counsel for the petitioner submits that the petitioner



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did not carry on business during the Covid-19 pandemic period and, therefore, filed nil returns. After coming to know of the order in original, he submits that an appeal was filed before the first respondent. He points out that such appeal was rejected on the ground of limitation. He further submits that 10% of the disputed tax demand was paid at the time of presenting the appeal and the petitioner agrees to remit an additional 5% of the disputed tax demand as a condition for remand to the original authority.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondents. He points out that a notice in Form ASMT 10 dated 23.03.2023, a show cause notice dated 18.03.2023 and a personal hearing notice dated 27.03.2023 were issued to the petitioner.

4. On examining the impugned order, it is evident that such order relates to two e-way bills, which were not reported in the GSTR 1 statements. It is also clear that the tax proposal was confirmed



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because the petitioner did not reply to the show cause notice. In view of the assertion that the petitioner could not participate on account of not being aware of proceedings, the interest of justice warrants that an opportunity be provided to the petitioner, albeit by putting the petitioner on terms.

5. For reasons aforesaid, impugned orders dated 04.09.2023 and 12.04.2024 are set aside and the matter is remanded to the second respondent for re-consideration subject to the petitioner remitting an additional 5% of the disputed tax demand within a period of *two weeks* from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to submit a reply to the show cause notice. On receipt thereof and on being satisfied that an additional 5% of the disputed tax demand was received, the second 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.



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WEB COPY 6. W.P.No.14724 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.No.15965 of 2024 is closed.

13.06.2024

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

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SENTHILKUMAR RAMAMOORTHY,J

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