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W.P.No.14953 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.14953 of 2024
and W.M.P.Nos.16229, 16232 & 16235 of 2024

Sole Mates Inc,
Represented by its Proprietor Mr.Mujtaba Ahmed,
No.4/9, First Floor, Shaik Ali Subedar Street,
Periamet, Chennai 600 003.

... Petitioner

-VS-

1.The Assistant Commissioner,
Vepery Assessment Circle, North III: Chennai,
Station, No.10 Greaves Road,
Palaniappa Maligai,
Chennai 600 006.

2.The Branch Manager,
Development Bank of Singapore,
No.806, Anna Salai,
Chennai 600 002.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for records in Reference Number: ZD3312230771010/2017-18 dated 12.12.2023 on the file of the 1st respondent and quash the same as contrary to law, consequently direct the 1st respondent to defreeze the bank account in GSTIN: 33AIFPM1997F1Z6/2017-18 dated 17.05.2024 of the petitioner – registered taxable person.

For Petitioner : Ms.V.Vijayalakshmi

For Respondent 1 : Mr.V.Prasanth Kiran, GA (T)

ORDER

An order in original dated 12.12.2023 is assailed on the ground of breach of principles of natural justice. By asserting that GST compliances had been entrusted to a consultant and that such



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consultant did not inform the petitioner about proceedings culminating in the impugned order, the present writ petition was filed.

2. Learned counsel for the petitioner submits that the tax proposal related to a mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. On account of being unaware of proceedings, the petitioner could not participate. Pursuant to the order impugned herein, she points out that a sum of Rs.4,09,604.87/- was appropriated from the petitioner's bank account on 21.05.2024.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that principles of natural justice were complied with by issuing show cause notice dated 20.09.2023 and by offering a personal hearing by notices dated 20.09.2023 and 06.11.2023.

4. On examining the impugned order, it is evident that the tax



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proposal was confirmed because the petitioner did not reply to the show cause notice or attend the personal hearing. By taking note of the assertion that the petitioner could not participate in proceedings on account of not being aware of the same, the interest of justice warrants that an opportunity be provided to the petitioner to contest the tax demand on merits. The petitioner stated that a sum of Rs.4,09,604.87/- was appropriated from the bank account and the bank statement has been placed on record to substantiate such contention. Subject to verification of this appropriation, revenue interest stands secured to that extent.

5. For reasons set out above, impugned order dated 12.12.2023 is set aside subject to verification that a sum of Rs.4,09,604.87/- was appropriated from the petitioner's bank account towards the tax demand under the impugned order. If not, the petitioner shall remit 10% of the disputed tax demand within *two weeks* 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 said period. Upon



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receipt thereof and upon being satisfied that at least 10% of the disputed tax demand was received, the assessing officer 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. On account of the assessment order being set aside on condition, the bank attachment is raised.

6. W.P.No.14953 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.16229, 16232 and 16235 of 2024 are closed.

19.06.2024

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

1.The Assistant Commissioner,

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2.The Branch Manager,
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