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W.P.No.14939 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition No.14939 of 2024 and
W.M.P.Nos.16214, 16216 & 16217 of 2024

Laanaa Furniture,
Represented by its Proprietor,
Mr.Abdul Lathif Sahubar Sathik,
No.73/2, Thiruvalluvar Salai,
Tiruvallur, Tamil Nadu, Chennai-600 118.

.. Petitioner

-VS-

1. The Deputy Commercial Tax Officer,
Kodungaiyur Assessment Circle,
Avadi, Thiruvallur, Room No.203, 2nd floor,
Integrated Commercial Taxes Office Complex,
No.32, Elephant Gate Bridge Road, Chennai-600 003.

2.The Assistant Commissioner (ST) (FAC),
Kodungaiyur Assessment Circle,
Room No.203, 2nd floor,
Integrated Commercial Taxes Office Complex,
No.32, Elephant Gate Bridge Road, Chennai-600 003.

3. The Branch Manager,
HDFC Bank,
HDFC Bank Limited, Ground and 1st floor,
10A, 21st cross road, MKB Nagar,
Chennai-600 039.

... Respondents



W.P.No.14939 of 2024

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for records in Reference Number.ZD3312231187630/2017-18 DT. 16.12.2023 on the file of the 1st respondent and quash the same as contrary to law, consequently direct the 2nd Respondent to defreeze the bank attachment in Reference No GSTIN. 33BNDPS1745R1ZG/DSTO-3. Dt. 27.03.2024 of the Petitioner-Registered Taxable Person.

For Petitioner : Mr.S.Ramanan

For R1 & R2 : Mr. C.Harsha Raj, AGP (T)

ORDER

An order in original dated 16.12.2023 is assailed on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits. By asserting that the petitioner was unaware of proceedings since the show cause notice and other communications were uploaded on the portal and not communicated through any other mode, the present writ petition was filed.

2. Learned counsel for the petitioner seeks another opportunity to contest the tax demand on merits. On instructions, he submits that the



W.P.No.14939 of 2024

petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for respondents 1 & 2. He submits that principles of natural justice were complied with by issuing show cause notice dated 30.09.2023 and by offering a personal hearing.

4. On examining the impugned order, it appears that the tax proposal pertains to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. In view of the assertion that the petitioner could not participate in proceedings on account of being unaware of the same, the interest of justice warrants that an opportunity be provided to the petitioner to contest the tax demand on merits by putting the petitioner on terms.

5. For reasons set out above, the impugned order dated 16.12.2023 is set aside and the matter is remanded for reconsideration subject to the condition that the petitioner remits 10% of the disputed tax demand as



W.P.No.14939 of 2024

agreed to within a period of 15 days from the date of receipt of a copy of this order. The petitioner is permitted to submit a reply to the show cause notice within the aforesaid period. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, the 1st 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. In view of the assessment order being set aside, the bank attachment is raised.

6. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

14.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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To

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W.P.No.14939 of 2024

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