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W.P.No.14959 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition No.14959 of 2024 and
W.M.P.Nos.16238, 16239 & 16241 of 2024

Esha Logistics Private Limited,
Represented by its Director Mrs.Jayasree,
No.50, Fourth floor, M.L.Tower,
Moore street, Chennai-600 001.

.. Petitioner

-VS-

1. The Commercial Tax Officer,
Harbour Assessment Circle,
North-I, Chennai North,
Integrated Commercial Taxes Office Complex,
Room No.312, 3rd floor,
Elephant Gate Bridge Road,
Vepery, Chennai-600 003.

2.The Branch Manager,
ICICI Bank Limited,
No.75, Gangadeeswarar Koil Street,
Purasawalkam, Chennai-600 084.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for records in



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Reference Number ZD331223230606T/2017-18 dated 27.12.2023 on the file of the 1st respondent and quash the same as contrary to law, consequently direct the 1st Respondent to defreeze the bank attachment in Reference No GSTIN/33AACCE9836F1ZN/2017-18 dated 09.05.2024 of the Petitioner-Registered Taxable Person.

For Petitioner : Mr.S.Ramanan

For R1 : Mrs.K.Vasanthamala, Govt. Adv. (T)

ORDER

An order in original dated 27.12.2023 is challenged on the ground of breach of principles of natural justice. The petitioner asserts that it was not possible to participate in proceedings culminating in the impugned order because the director who was entrusted with statutory compliances was unwell and could not respond to the show cause notice.

2. Learned counsel for the petitioner submits that a sum of Rs.4,59,579/- was debited from the petitioner's bank account in respect of a total tax liability of Rs.4,70,902/-. He seeks an opportunity to contest the tax



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demand on merits.

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3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the 1st respondent. She points out that principles of natural justice were complied with by issuing show cause notice dated 25.09.2023 and reminder notice dated 02.12.2023.

4. On perusal of the impugned order, it is evident that the tax proposal relates to the Input Tax Credit (ITC) claim as per the petitioner's GSTR 3B returns. Such tax proposal was confirmed on the ground that the tax payer did not submit a reply. As against the total tax liability of Rs.4,70,902/-, a sum of Rs.4,59,579/- was debited from the petitioner's bank account. Consequently, the revenue interest stands substantially secured at this juncture. In order to provide an opportunity to the petitioner to contest the tax demand on merits, reconsideration is necessary.

5. For reasons set out above, the impugned order dated 27.12.2023 is



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set aside and the matter is remanded for reconsideration. The petitioner is permitted to submit a reply to the show cause notice within 15 days from the date of receipt of a copy of this order. Upon receipt thereof, 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. On account 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

The Commercial Tax Officer,

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SENTHILKUMAR RAMAMOORTHY,J



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