



WEB COPY



W.P.No.15334 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15334 of 2024

and

W.M.P.Nos.16658 and 16660 of 2024

M/s.Chandan Trading Co.,
Represented by its Partner Mr.Ketan M Chandan

... Petitioner

Versus

1. The Assistant Commissioner (ST)
Park Town Assessment Circle
Room No.306, No.32
Integrated Commercial Taxes Office Complex
Elephant Gate Bridge Road
Chennai - 600 003

2. The Deputy State Tax Officer-I
Park Town Assessment Circle
Room No.306, No.32
Integrated Commercial Taxes Office Complex
Elephant Gate Bridge Road
Chennai - 600 003

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorari to call for the records in the order passed by the 2nd respondent in GSTIN 33AAIFC6899H1Z0/2017-18 dated 09.11.2023 and in Summary of order in Form DRC-07 in Ref.



W.P.No.15334 of 2024

No.ZD331123056803P dated 09.11.2023 and quash the orders as arbitrary and illegal.

For Petitioner : Mr. A. Thirumaran,
for Mr. G. Mohanakrshnan

For Respondent : Mr. C. Harsha Raj
Additional Government Pleader (Tax)

ORDER

An order dated 09.11.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. By stating that the GST registration of the petitioner was cancelled on 17.06.2022 and that, therefore, the petitioner was not monitoring the GST portal, the present writ petition was filed.

3. The petitioner asserts that they were not aware of the proceedings culminating in the impugned order because the show cause notice and the order were uploaded on the GST portal and not communicated to the petitioner through any other mode.



W.P.No.15334 of 2024

WEB COPY

4. 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. Since the petitioner was not heard before the impugned order was issued, learned counsel for the petitioner seeks an opportunity to contest the tax demand on merits.

5. Mr. C. Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing notice dated 31.07.2023 and several personal hearing notices and reminders.

6. On perusal of the impugned order, it is evident that the tax proposal was confirmed that the petitioner did not reply to the show cause notice or attend the personal hearing. By taking into account the assertion that the petitioner was not monitoring the GST portal on account of the GST registration being cancelled, the interest of justice warrants that an opportunity be provided to the petitioner, albeit by putting the petitioner on terms.



W.P.No.15334 of 2024

WEB COPY

7. Therefore, the impugned order dated 09.11.2023 is set aside and the matter is remanded to the respondent for reconsideration subject to the condition that the petitioner remits 10% of the disputed tax demand within 15 days 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. Upon receipt thereof and upon being satisfied that 10% of the disputed tax demand was received, the 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.

8. The Writ Petition is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

20.06.2024

Index : No
Speaking
Neutral Case Citation : No



W.P.No.15334 of 2024

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SENTHILKUMAR RAMAMOORTHY,J

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