



WEB COPY



W.P.No.15493 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15493 of 2024
and W.M.P.Nos.16844, 16845 & 16846 of 2024

Tvl. Super Printing Press
Represented by its Proprietrix Ms.Meenakshi
T349B, Sidco Womens Industrial Park
8th Street, Vellanur Village,
Thirumullaivoyal, Chennai 600 062.

... Petitioner

-VS-

1.Deputy State Tax Officer (ST)-1,
Thirumullaivoyal Assessment Circle,
Door No.32, Room No.114,
Elephant Gate Bridge Road, Chennai 600 003.

2.Assistant Commissioner (State Tax)
Thirumullaivoyal Assessment Circle,
Door No.32, Elephant Gate Bridge Road,
Chennai 600 003.

3.The Branch Manager,
Indian Overseas Bank
38, East Mada Street,
Mylapore, Chennai - 04.

... Respondents



W.P.No.15493 of 2024

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records on the file of the 1st Respondent passed in GSTIN: 33AGMPM7562M1ZS / 2017-18 dated 23.08.2023 and consequential order in Form GST DRC - 07 having Reference No.ZD330823135924A under Section 73 of the Act dated 24.08.2023 relating to FY 2017-18 and quash the same as illegal, contrary to the provisions of the Act and against the principles of natural justice and fairplay.

For Petitioner : Mr.P.Aruna Chopda

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

ORDER

An order dated 23.08.2023 is assailed in this writ petition on the



W.P.No.15493 of 2024

ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. By asserting that the petitioner runs a small business of printing and selling spiritual / religious books, the present writ petition was filed. The petitioner further states that she was unaware of proceedings culminating in the impugned order and therefore could not participate in the same. She further states that she became aware of such proceedings only upon receiving information from the third respondent bank.

2. Learned counsel for the petitioner submits that the petitioner would be in a position to establish that the tax proposal is liable to be dropped if provided an opportunity to contest the tax demand on merits. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondents. He submits that the principles of



W.P.No.15493 of 2024

natural justice were complied with by issuing an intimation dated 27.04.2023, a show cause notice dated 09.06.2023 and a personal hearing notice dated 13.07.2023.

4. On perusal of the impugned order, it is evident that the tax proposal pertains to a mismatch between the petitioner's turnover as per the GSTR 3B return in comparison to the GSTR 1 statement. By taking into account the assertion that the petitioner could not participate in proceedings on account of being unaware of the same, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits, albeit by putting the petitioner on terms.

5. For reasons set out above, impugned order dated 23.08.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within *two weeks* from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted



W.P.No.15493 of 2024

to submit a reply to the show cause notice. Upon receipt thereof and on 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.

6. W.P.No.15493 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.16844, 16845 and 16846 of 2024 are closed.

24.06.2024

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No



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To

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SENTHILKUMAR RAMAMOORTHY,J

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