



WEB COPY



W.P.No.16456 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16456 of 2024
and W.M.P.Nos.18005 & 18006 of 2024

Tvl. Tirupathi Metal Mart,
GSTIN / ID: 33ADJPG6680J1ZC,
Represented by its Proprietor Gauraram Purohit,
53/2, Shoba Nagar Road, Ambal Nagar,
Avarampalayam, Coimbatore 641 009.

... Petitioner

-VS-

The State Tax Officer,
Avarampalayam Circle,
Commercial Tax Building,
Dr.Balasundaram Road,
Coimbatore 641 018.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records pertaining to the impugned order in Form GST DRC - 07 bearing



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reference number ZD330623004287O/2018-19 dated 02.06.2023 issued
by the respondent and quash the same.

For Petitioner : Mr.C.Derrick Sam

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

ORDER

An order in original dated 02.06.2023 is challenged in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that the show cause notice and impugned order were uploaded on the “view additional notices and orders” tab of the GST portal and not communicated to the petitioner through any other mode. In view of the cancellation of the petitioner's GST registration by order dated 29.03.2019, the petitioner asserts that he was unaware of the impugned proceedings.



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2. Learned counsel for the petitioner submits that an inadvertent error was committed while applying for cancellation of the GST registration. Instead of seeking cancellation with effect from 01.04.2019, he submits that the petitioner had erroneously mentioned 01.04.2018 in the application. He also points out that the petitioner had filed the GST returns up to December 2018, as regards GSTR 1, and February 2019, as regards GSTR 3B. He refers to an e-mail dated 28.04.2019 whereby the petitioner informed the respondent about the above mentioned inadvertent error. Without prejudice, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the respondent. After pointing out that principles of natural justice were complied with by issuing show cause notice dated 07.01.2022 and by offering a personal hearing, he also points



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out that the impugned order was issued on 02.06.2023 and that the petitioner has approached this Court belatedly.

4. The documents on record disclose that the petitioner's GST registration was cancelled with effect from 01.04.2018. The petitioner has also placed on record e-mail dated 28.04.2019, which *prima facie* indicates that the petitioner had filed returns up to the date of cancellation. In these circumstances, albeit by putting the petitioner on terms, re-consideration is necessary.

5. For reasons aforesaid, impugned order dated 02.06.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within *fifteen days* from the date of receipt of a copy of this order. 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*



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months from the date of receipt of the petitioner's reply. For the avoidance of doubt, it is made clear that the amounts remitted by the petitioner pursuant to the order shall abide by the outcome of the remanded proceedings.

6. W.P.No.16456 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.18005 and 18006 of 2024 are closed.

08.07.2024

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

The State Tax Officer,
Avarampalayam Circle, Commercial Tax Building,
Dr.Balasundaram Road, Coimbatore 641 018.



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