



WEB COPY



W.P.No.17591 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.17591 of 2024
and
W.M.P.Nos.19378 & 19381 of 2024

M/s. Jai Maa Engineering Co,
Rep.by its Proprietor,
Mr. Chandesdwar Prasad Sathish Chand Jaiswal. ... Petitioner

Versus

The State Tax Officer,
Harbour Assessment Circle,
Department of Commercial Taxes, Tamil Nadu,
Integrated Commercial Taxes Office Complex,
Room No.325, Vepery, Chennai – 3. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorarified Mandamus, to call for the Impugned order Reference No.ZD3308231488651 dated 25/08/2023 issued by the respondent and quash the same as illegal and arbitrary and direct the respondent to remove the attachments of the bank accounts and direct the respondent to drop the unreasonable demand proceedings confirmed against the petitioner.



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For Petitioner : Mr. A. Dhamodaran

For Respondents : Mr. T.N.C. Kaushik,
Additional Government Pleader (Tax)

ORDER

An order in original dated 25.08.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that he was unaware of proceedings culminating in the impugned order because all communications were uploaded on the GST portal and not communicated to the petitioner through any other mode. It is further stated that he become aware of proceedings only at the end of February 2024 when the petitioner's bank account was attached.

3. Learned counsel for the petitioner submits that the tax proposal pertains to a mismatch between the GSTR-3B returns and the auto-populated GSTR-2A. If provided an opportunity, he submits that the petitioner would be in a position to establish that there was no difference between the petitioner's returns and GSTR-2A. After submitting that the



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date of personal hearing was not fixed, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr. T.N.C. Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that ASMT-10 notice was issued upon scrutiny of the petitioner's returns. Thereafter, the show cause notice dated 06.02.2023 was issued and a personal hearing was also offered to the petitioner.

5. On perusal of the impugned order, it is evident that the tax proposal was confirmed because the taxpayer failed to reply or submit oral or documentary evidence. By taking into account the assertion that the petitioner become aware of proceedings only upon the attachment of his bank account, the interest of justice warrants reconsideration subject to the petitioner being put on terms.

6. For the aforesaid reasons, the impugned order dated 25.08.2023 is



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set aside and the matter is remanded for reconsideration on 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 aforesaid period, the petitioner is permitted to submit a reply to the show cause notice. Upon receipt of the petitioner's reply 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 reply from the petitioner. In view of the impugned order being set aside, the bank attachment is raised.

7. 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.

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Index : No
Speaking Order : Yes
Neutral Case Citation: No
klt



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To

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SENTHILKUMAR RAMAMOORTHY,J.

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