



W.P.No.15838 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15838 of 2024

&

WMP Nos.17262 & 17266 of 2024

Environ Best Solution
Represented by its Partner
Ayyarpandian Muthuselvam
No.14, Bakthavachalam Avenue, P.K.Street,
Poonamallee, Thiruvallur,
Tamilnadu-600 056. ... Petitioner

Versus

1. Commercial Tax Officer,
Poonamallee Zone
Chennai-600 123,
Tamil Nadu.
2. The Manager,
City Union Bank Limited
1/2, Kundrathur Road,
Murugan Nagar, Mangadu,
Kancheepuram, Chennai-600 122. ...Respondents



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Prayer : A Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 15.12.2023 in Form GST DRC-07 bearing GSTIN.No.33AAEFE7386H1ZA/2017-2018 issued by the 1st Respondent along with summary of the order dated 15.12.2023 both having Reference No.ZD331223104130F and quash the same, and consequently direct the 1st Respondent to lift the attachment made on the Bank accounts maintained by the petitioner with the 2nd respondent dated 22.04.2024.

For Petitioner : Mr.S.Sanskar Samdaria

For Respondents : Mrs.K.Vasanthamala
Government Advocate

ORDER

An order in original dated 15.12.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.



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2. By asserting that the petitioner was unaware of proceedings until the bank attachment was communicated to him because the show cause notice and other communications were uploaded on the “View Additional Notices and Orders” tab on the GST portal and not communicated to the petitioner through any other mode, the present writ petition was filed.

3. Learned counsel for the petitioner submits that the tax proposal related to the mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. If provided an opportunity, he submits that the petitioner would be in a position to explain the disparity. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.



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4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the first respondent. She submits that principles of natural justice were complied with by issuing intimation dated 19.09.2023, show cause notice dated 26.09.2023 and a personal hearing notice dated 30.10.2023.

5. On examining the impugned order, it is evident that the tax proposal was confirmed solely on the ground that the petitioner did not reply to the show cause notice. In view of the assertion that the petitioner could not reply or participate in proceedings on account of being unaware of the same, the interest of justice warrants reconsideration by providing a reasonable opportunity to the petitioner to contest the tax demand on merits by putting the petitioner on terms.



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6. Therefore, the impugned order dated 15.12.2023 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 to submit a reply to the show cause notice. On receipt of the petitioner's reply 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. On account of the assessment order being set aside, the bank attachment is raised.

7. W.P.No.15838 of 2024 is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

26.06.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



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SENTHILKUMAR RAMAMOORTHY,J

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To

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2. The Manager,
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