IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **25.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.15743 of 2024
and W.M.P.Nos.17150, 17151 & 17153 of 2024

Acme Fab-con India Private Limited,
Represented by its Director,
J.M.Samy,
Door No.7, Plot No.27B,
6th street, Thillai Gangai Nagar,
Nanganallur, Chennai-600 061. .. Petitioner

-vs-

1. Assistant Commissioner (ST),
Nanganallur Assessment Circle,
Integrated Commercial Taxes and Registration Department,
South Tower, 2nd floor,
Room No.224, No.571,
Anna salai, Nandanam, Chennai-600 035.

2. The Branch Manager,
IDBI Bank,
OTA St. Thomas Mount,
Chennai-600 016. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the impugned order of the first respondent passed in GSTIN:33AAICA0219L1ZX/2017-2018 dated 23.12.2023 (digitally signed on 27.12.2023) and quash the same.

For Petitioner : Ms.Saitanya Kesan
for Mr.N.Murali

For R1 : Mr.V.Prashanth Kiran, Govt. Adv. (T)

ORDER

An order dated 23.12.2023 is challenged on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits. By asserting that the petitioner had engaged the services of a part time consultant to handle GST compliances and that the petitioner was unaware of proceedings culminating in the impugned order because the show cause notice and other communications were uploaded in 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.

2. Learned counsel for the petitioner submits that the tax proposal pertains to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. She further submits that the petitioner would be

in a position to justify the availment of Input Tax Credit (ITC), if provided an opportunity. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the 1st respondent. He submits that principles of natural justice were complied with by issuing show cause notice dated 30.09.2023 and by offering a personal hearing to the petitioner on about three dates.

4. On perusal of the impugned order, it is evident that the tax proposal relates to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. It is also evident that such tax proposal was confirmed because the tax payer did not file objections to the show cause notice. In view of 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 by putting the petitioner on terms.

5. Therefore, the impugned order dated 23.12.2023 is set aside on

condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of two weeks from the date of receipt of a copy of this order. The petitioner is permitted to submit a reply to the show cause notice within the aforesaid period. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, the 1st respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of three months from the date of receipt of the petitioner's reply. In view of the assessment order being set aside, the bank attachment is raised.

6. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

25.06.2024

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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