IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.16291 of 2024 and
W.M.P.Nos.17833 to 17835 of 2024

Prakash Fabricators & Electricals,
Represented by its Sole Proprietor,
R.Prakash, Gandhi Street,
Budur Post, Angadu Village,
Ponneri, Chennai,
Tamil Nadu – 600 067. .. Petitioner

-vs-

1. Assistant Commissioner (ST)(FAC),
Ponneri Assessment Circle, Chennai.

2.Canara Bank,
Represented by its Branch Manager,
Survey No.68/17, GNT Road,
Sembulivaram, Sholavaram,
Thiruvallur District – 600 062. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records on the files of the 1st Respondent herein in GSTIN/33ANFPB7718Q1ZP/2019-20 dated 16.05.2023 and quash the same.

For Petitioner : Ms.Siri Chandana K.

For R1 : Mr.C.Harsha Raj, AGP (T)

ORDER

An order in original dated 16.05.2023 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. By asserting that the petitioner was unaware of proceedings because the show cause notice and other communications were uploaded on the GST portal but not communicated to the petitioner through any other mode, the present writ petition was filed. The petitioner asserts that he became aware of the impugned order only during the second week of January 2024.

2. Learned counsel reiterated that the petitioner was unaware of proceedings and therefore could not participate in the same. She further submits that the petitioner would be in a position to explain the discrepancies indicated in the impugned order, if provided an opportunity. She points out that 10% of the disputed tax demand was remitted while filing statutory appeals and that such appeals were rejected on the ground of limitation. On instructions, learned counsel submits that the petitioner agrees

to remit an additional 5% of the disputed tax demand as a condition for remand.

3. Mr. C.Harsha Raj, learned Additional Government Pleader, accepts notice for the 1st respondent. He submits that principles of natural justice were complied with by issuing intimation dated 03.03.2023, show cause notice dated 15.04.2023 and by offering a personal hearing.

4. On perusal of the impugned order, it is evident that the tax proposal was confirmed because the petitioner failed to reply to the show cause notice or appear at the personal hearing. By taking into account the assertion that such non participation was on account of not being aware of the proceedings, 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 16.05.2023 is set aside on condition that the petitioner remits an additional 5% 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 15% of the disputed tax demand in the aggregate 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 1st respondent is restrained from appropriating any amounts from the attached bank account.

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

04.07.2024
(1/2)

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No
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SENTHILKUMAR RAMAMOORTHY,J

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To

Assistant Commissioner (ST)(FAC),
Ponneri Assessment Circle, Chennai.

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