



WEB COPY



W.P.No.17062 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2024

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17062 of 2024
and W.M.P.Nos.18805 & 18806 of 2024

M/s.Globe Industrial Spares,
Represented by its Partner,
No.15-B Vanier Street,
Broadway, Chennai- 600 001.

... Petitioner

-VS-

The Deputy State Tax Officer,
Broadway Assessment Circle,
Wall Tax Road, Chennai-600 003.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,
to issue a Writ of Certiorari to call for the records of the respondent in Order
dated 19/01/2024 in GSTIN 33AAAFG0386K1ZJ/2018-19 and quash the
same as illegal, arbitrary and in violation of principles of natural justice.



WEB COPY



W.P.No.17062 of 2024

For Petitioner : Ms.C.Rekhakumari

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

ORDER

An order dated 19.01.2024 is assailed on the ground that the petitioner's reply to the intimation was not taken into consideration and that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. An intimation dated 27.06.2022 was issued to the petitioner indicating a tax liability of Rs.1,09,594/-. The petitioner states that a reply dated 15.05.2023 was sent in response thereto. Thereafter, pursuant to show cause notice dated 08.12.2023, the impugned order was issued.

3. Learned counsel for the petitioner refers to the reply dated 15.05.2023 and points out that the petitioner enclosed screen shots of the GSTR 1 return for the month of October 2018 and copies of invoice Nos.46



W.P.No.17062 of 2024

& 47. If these documents had been taken into consideration, learned counsel contends that there would be no mismatch between the petitioner's GSTR 1 and 3B returns.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing notice in Form ASMT 10 after scrutinising the petitioner's returns. He also submits that show cause notice dated 08.12.2023 and personal hearing notices dated 03.01.2024 and 12.01.2024 were issued. On instructions, he states that the reply dated 15.05.2023 was not received and that only the reply dated 27.05.2023 was received.

5. On examining the impugned order, it is evident that the tax proposal pertains to the alleged failure of the petitioner to report a supply to the North Chennai Thermal Power Station. Such tax proposal was confirmed on account of the petitioner's failure to reply. The petitioner has placed on record reply dated 15.05.2023 indicating that the relevant supply was reported in the GSTR 1 return for October 2018. Perhaps on account of such



W.P.No.17062 of 2024

reply not being uploaded on the GST portal, the same was not taken into consideration. These facts and circumstances warrant reconsideration subject to putting the petitioner on terms. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

6. Therefore, the impugned order dated 19.01.2024 is set aside subject to the 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 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.



W.P.No.17062 of 2024

WEB COPY 7. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

10.07.2024

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

kj

To

The Deputy State Tax Officer,
Broadway Assessment Circle,
Wall Tax Road, Chennai-600 003.

SENTHILKUMAR RAMAMOORTHY,J

5/6



WEB COPY



W.P.No.17062 of 2024

kj

W.P.No.17062 of 2024
and W.M.P.Nos.18805 & 18806 of 2024

10.07.2024