



W.P.No.16736 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16736 of 2024

and

W.M.P. Nos.18387, 18388 & 18390 of 2024

Tvl Blue Wave Collections,
Represented by its Proprietor,
Mr. A. Azadh

... Petitioner

Versus

1.The Deputy State Tax Officer-I,
Brough Road Assessment Circle,
Erode – 638 001.

2.The Deputy Commissioner St
161, Meenakshi Sundaranarsalai,
Erode 638 001.

3.The Branch Manager
Punjab National Bank
327, Brough Road,
Erode - 638 001.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India pleaded to issue a Writ of Certiorari calling for the records on the files of the 1st Respondent herein in FORM GST DRC-07 with Reference No.ZD331223284111Y dated 30.12.2023 along with detailed order in GSTIN:33ATEPA3232F1ZH/2017-18 dated 30.12.2023, for the assessment period 2017-18 and quash the same.

For Petitioner : Mr. K.A. Parthasarathy

For Respondents : Mr. T.N.C. Kaushik, (for R1 & R2)
Additional Government Pleader (Tax)

ORDER

An order in original dated 30.12.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. By asserting that 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. The petitioner asserts that he is a proprietor of a small concern and was unaware of proceedings because physical service was not effected.



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3. Learned counsel for the petitioner submits that the tax proposal relates to a mismatch between the petitioner's GSTR 1 and GSTR 3B returns and that the petitioner would be in a position to explain the mismatch satisfactorily if provided an opportunity. He also points out that a sum of Rs.70,561/- was appropriated from the petitioner's bank account pursuant to the impugned order. He submits that this represents about 30% of the disputed tax demand.

4. Mr. T.N.C. Kaushik, learned Additional Government Pleader, accepts notice for the first and second respondent. He submits that principles of natural justice were complied with by issuing a notice in Form ASMT-10 dated 28.04.2023, intimation dated 29.09.2023 and show cause notice dated 29.11.2023 offering a personal hearing.

5. On perusal of the impugned order, it is evident that the tax proposal was confirmed because the taxpayer failed to respond to the show cause notice. By taking into account the assertion that non-participation was on account of not being aware of the proceedings, it is just and appropriate that the petitioner be provided an opportunity to



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contest the tax demand on merits. In this regard, it should be noticed that the sum of Rs.70,561/-, which represents about 30% of the disputed tax demand, was appropriated from the petitioner's bank account. To that extent, revenue interest stands protected.

6. Therefore, impugned order dated 30.12.2023 is set aside and the matter is remanded for reconsideration. The petitioner is permitted to submit a reply to the show cause notice within 15 days from the date of receipt of a copy of this order. Upon receipt thereof, 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. In view of the impugned order being set aside, the garnishee proceedings are also set aside.

7. For the avoidance of doubt, it is made clear that amounts paid by the petitioner pursuant to the impugned order shall abide by the outcome of the remanded proceedings.

8. The Writ Petition is disposed of on the above terms. There shall



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be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

03.07.2024

Index :No

Speaking Order : Yes

Neutral Case Citation:No

klt

To

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