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W.P.No.16815 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16815 of 2024
and W.M.P.Nos.18495 & 18496 of 2024

M/s.Ambattur Tapstia Engineering Consortium Private Limited,
PP-2, Sidco Women Indl. Estate, Sidco Women Indl. Estate, Kattur,
Thirumullaivoyal, Tiruvallu,
Tamil Nadu 600 062.

... Petitioner

-VS-

- 1.The Commissioner,
Office of Principal and Special Commissioner of Commercial Taxes,
Office of Commercial Taxes, Ezhilagam, Chepauk,
Chennai 600 005.
- 2.The Joint Commissioner (ST), Thiruvallur CT Division,
Integrated Commercial Taxes Office Complex,
Elephant Gate, Vepery, Chennai 600 003.
- 3.The Deputy State Tax Officer-2,
Thirumullaivoyal Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.115, 1st Floor, Vepery, Chennai 600 003. ... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records culminating in Order No. TN-GST/33AAKCA4696F1ZJ/2017-18 dated 07.03.2023 passed by the 3rd respondent and quash the same.

For Petitioner : Mr.V.Haribabu

For Respondents : Mrs.K.Vasanthamala, GA (T)

ORDER

An order in original dated 07.03.2023 is challenged in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax proposal on merits. The petitioner asserts that he was unaware of the impugned order because it was uploaded on the portal but not communicated to the petitioner through any other mode.



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2. Learned counsel for the petitioner submits that the tax proposal pertains to the mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. He submits that the petitioner has obtained certificates from the suppliers in compliance with Circular No.183. He further submits that there is a mismatch between the show cause notice and the impugned order as regards the penalty component thereof. Without prejudice, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondents. She submits that principles of natural justice were complied with by issuing intimation dated 06.07.2022, show cause notice dated 27.08.2022 and by offering a personal hearing.



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4. On perusal of the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not reply to the show cause notice or appear for the personal hearing. *Prima facie*, it appears that 100% penalty was imposed under the impugned order whereas 10% penalty was proposed in the show cause notice. In these facts and circumstances, reconsideration is necessary albeit by putting the petitioner on terms for non participation.

5. For reasons aforesaid, impugned order dated 07.03.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand, as agreed to, within *fifteen days* 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. Upon receipt thereof and on being satisfied that 10% of the disputed tax demand was received, the third respondent is directed to provide a reasonable opportunity



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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.

6. W.P.No.16815 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.18495 and 18496 of 2024 are closed.

11.07.2024

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

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SENTHILKUMAR RAMAMOORTHY,J

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