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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16582 of 2024
&
WMP Nos.18193 & 18194 of 2024

Murugan Metals,
Represented by its Proprietor,
Mr.Pranay D. Jain
S/o. Dinesh Kumar,
Having office at:
No.33,34, Shri Kirshna Nagar,
Vadaperumbakkam, Chennai- 600 066. ... Petitioner

Versus

The State Tax Officer (ST)
Moore Market Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai-600 003. ...Respondent

Prayer : A Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari calling for the records of the respondent in Order dated 28.12.2023 in

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GSTIN: 33AAKPK6713C1Z2/2017-18 for the Financial Year 2017-18, which came to be passed by the Respondent as per the provisions of U/s.74 of the GST Act, directing "the petitioner to pay a sum of Rs.2,86,98,605/- (CGST) and 2,86,98,605/- (SGST) including the interest and Penalty @ 100% due for the financial year 2017-2018 and quash the same as illegal, arbitrary and in violation of principles of natural justice.

For Petitioner	:	Mr.Pranav Jain
For Respondent	:	Mr.T.N.C.Kaushik Addl. Govt. Pleader

ORDER

An order dated 28.12.2023 is assailed in this writ petition on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that he had duly reported both inward and outward supply in the GSTR 3B and the GSTR 1 returns. He, however, asserts that an inadvertent error was made

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while filing the annual return by choosing Column 6[D] instead of Column 6[B]. According to the petitioner, this resulted in the tax proposal. The petitioner further asserts that he was unaware of the impugned order until the bank attachment notice dated 17.05.2024 was served on the petitioner.

3. Learned counsel for the petitioner referred to the reply dated 11.01.2023 and pointed out that the petitioner had attached the GSTR 3B return and a comparison statement between the GSTR 2A and the GSTR 3B. Learned counsel further submitted that the assessing officer failed to take into account the GSTR 3B returns of the petitioner while confirming the tax proposal. On instructions, he submits that the petitioner agrees to remit 5% of the disputed tax demand as a condition for remand.

4. Mr.T.N.C.Kaushik, learned Additional Government

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Pleader, accepts notice for the respondent. He submits that the principles of natural justice were complied with by issuing intimation dated 26.10.2022, show cause notice dated 12.12.2022 and several reminder notices. He further submits that the petitioner should have reconciled the difference between the GSTR 3B returns and the annual return by filing the reconciliation statement in Form GSTR 9C. Since this was not done, he submits that the assessing officer was constrained to confirm the tax proposal.

5. The petitioner's reply dated 11.01.2023 indicates that the GSTR 3B returns for assessment period 2017-18 along with a comparison statement between the GSTR 2A and the GSTR 3B returns were annexed. The assessing officer does not appear to have taken note of these documents while confirming the tax proposal. However, as contended by learned Additional

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Government Pleader, the petitioner has also failed to subsequently participate in proceedings or file the reconciliation statement in GSTR 9C. In these circumstances, while reconsideration is necessary, it is also necessary to put the petitioner on terms.

6. For reasons set out above, the impugned order dated 28.12.2023 is set aside on condition that the petitioner remits 5% of the disputed tax demand as agreed to within two weeks from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to submit additional documents, if any. Upon receipt thereof and on being satisfied that 5% 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 three months from the date of receipt of the remittance of 5%. In view

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the assessment order being set aside, the bank attachment is raised.

7. W.P.No.16582 of 2024 is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

25.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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To

The State Tax Officer (ST)
Moore Market Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai-600 003.

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SENTHILKUMAR RAMAMOORTHY,J

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25.06.2024

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