



W.P.No.17241 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.17241 of 2024
and W.M.P.Nos.19019 & 19020 of 2024

M/s.Sunone Engineers,
Represented by its Proprietor,
Mr.Rajamanickam Ramesh,
27, Baby Nagar, First Floor, First Cross Street,
Velachery, Chennai, Tamil Nadu 600 042.

... Petitioner

-VS-

The Deputy State Tax Officer II,
Velacherry Assessment Circle,
Commercial Taxes Building,
Room No.222, 2nd Floor, Nandhanam,
Chennai, Tamil Nadu 600 035.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records leading to the issuance of order in original reference No. ZD3312232766669 dated 30.12.2023 Form DRC 07 with connected



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proceedings reference number GSTIN / 33AGWPR5595F1ZN / 2017-

18 dated 30.12.2023, by the respondent herein and quash the same, and direct to consider the matter afresh, after giving full and fair opportunity to the petitioner to submit its reply and after affording opportunity of personal hearing to the petitioner.

For Petitioner : Mr.T.C.Prakash

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

ORDER

An order in original dated 30.12.2023 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. The petitioner asserts that a tax practitioner was engaged for purposes of filing returns and responding to notices. Since the show cause notice and other communications were uploaded on the portal and not



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communicated to the registered e-mail ID, it is stated that the petitioner was unaware of proceedings and could not participate in the same.

2. Learned counsel for the petitioner submits that the confirmed tax proposal pertains to a mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. If provided an opportunity, learned counsel submits that the petitioner would be in a position to explain a mismatch satisfactorily, including by complying with the requirements of Circular No.183. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing intimation dated 19.09.2023, show cause notice dated 27.09.2023 and by issuing about



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two reminders for a personal hearing.

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4. On examining the impugned order, it is evident that the tax proposal was confirmed solely on the ground that the tax payer neither appeared nor file objections to the show cause notice. In view of the assertion that such non participation was on account of being unaware of proceedings, the interest of justice warrants re-consideration, albeit by putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 30.12.2023 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 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



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receipt of the petitioner's reply.

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6. W.P.No.17241 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19019 and 19020 of 2024 are closed.

16.07.2024

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

The Deputy State Tax Officer II,
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Chennai, Tamil Nadu 600 035.



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SENTHILKUMAR RAMAMOORTHY,J

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