



W.P.No.17168 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.17168 of 2024
and W.M.P.Nos.18951 & 18953 of 2024

Tvl. MKPRO Metal Fabricators Private Limited,
GSTIN/ID: 33AAKCM1761B1ZV,
Represented by its Managing Director Krishnan Ganesh,
7/2, Sathy Road, Kovilpalayam,
Sarkarsamakualam, Coimbatore.

... Petitioner

-VS-

1.The State Tax Officer (ST),
Saravanampatti (East) Circle,
Commercial Tax Building,
Dr. Balasundaram Road,
Coimbatore 641 018.

2.The Assistant Commissioner (ST) (FAC),
Saravanampatti (East) Circle,
Commercial Tax Building,
Dr. Balasundaram Road,
Coimbatore 641 018.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorari, call for the records pertaining to the impugned order in Form GST DRC - 07 bearing reference number ZD331223266763F / 2017-18 dated 29.12.2023 issued by the 1st respondent and quash the same.

For Petitioner : Mr.C.Derrick Sam

For Respondents : Mr.C.Harsha Raj, AGP (T)

ORDER

An order in original dated 27.12.2023 is assailed on the ground of breach of principles of natural justice. The petitioner asserts that he was unaware of proceedings culminating in the impugned order until the second week of May 2024 when his bank account was attached by the respondent. The present writ petition was filed in the said facts and circumstances.



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2. Learned counsel for the petitioner submits that the confirmed tax proposal relates 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 the mismatch satisfactorily. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondents. He submits that principles of natural justice were complied with by issuing show cause notice dated 02.09.2023 and by issuing three reminders.

4. On perusal of the impugned order, it is evident that the tax proposal was confirmed because the tax payer fail to file objections along with documentary evidence upon receipt of the show cause



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notice. By taking into account the assertion that such non participation was on account of not being aware of proceedings, the interest of justice warrants re-consideration, albeit by putting the petitioner on terms.

5. Therefore, impugned order dated 27.12.2023 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 first 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.



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WEB COPY 6. W.P.No.17168 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.18951 and 18953 of 2024 are closed.

16.07.2024

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

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SENTHILKUMAR RAMAMOORTHY,J

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