



WEB COPY



W.P.No.17443 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.17443 of 2024
and W.M.P.Nos.19229 & 19230 of 2024

M/s.Arulmurugan Rig Service,
Represented by its Proprietor Arulmurugan
Ground Floor, Old No.85, New No.53,
Vivekananda Colony,
100 FT Road, Vadapalani,
Chennai – 600 026.

... Petitioner

-vs-

1.The State Tax Officer (ST)(FAC),
Vadapalani Assessment Circle,
No.1, Ground Floor,
PAPJM Annex Building,
Greams Road, Chennai 600 006.

2.The Assistant Commissioner (ST),
Vadapalani Assessment Circle,
No.1, Ground Floor,
PAPJM Annex Building,
Greams Road, Chennai 600 006.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order bearing reference number GSTIN / 33AGRPA0051A2Z9/2017-2018 dated 25.12.2023 passed by the first respondent and quash the same and consequently directing the second respondent to release the bank account No.2990020000382 maintained with Bank of Baroda of the petitioner.

For Petitioner : Mr.K.Aadhishankaran

For Respondents : Mr.G.Nanmaran, Spl. GP

ORDER

An order in original dated 25.12.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that the show cause



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notice and other communications were uploaded on the GST portal and not communicated to the petitioner through any other mode. On account of not being aware of proceedings, it is submitted that the petitioner could not participate in the same.

2. Learned counsel for the petitioner submits that the confirmed tax proposal pertains to the mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. If provided an opportunity, he submits that the petitioner would be in a position to establish that only eligible Input Tax Credit was claimed. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.G.Nanmaran, learned Special Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing intimation dated 11.08.2023, show cause notice dated 26.09.2023 and by offering a



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personal hearing.

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4. On examining the impugned order, it is evident that the tax proposal was confirmed because the tax payer did not respond to the notice or appear for the personal hearing. By taking note of the assertion that the petitioner could not participate in proceedings on account of not being aware of the same, it is just and appropriate to provide an opportunity to the petitioner to contest the tax demand on merits by putting the petitioner on terms.

5. Therefore, impugned order dated 25.12.2023 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



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

6. W.P.No.17443 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19229 and 19230 of 2024 are closed.

18.07.2024

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

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SENTHILKUMAR RAMAMOORTHY,J

rna

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