IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.18397 of 2024 and
W.M.P.Nos.20206 & 202027 of 2024

Tvl. Wel Flow Industries,
Represented by its Proprietor: V.Chandran,
15/1, Bharathi Nagar, Neelikonampalayam,
Coimbatore-641 033.` ... Petitioner

Versus

The State Tax Officer,
Singanallur North Assessment Circle,
Coimbatore. ... Respondent

Prayer : A Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in GSTIN:33HNPC3221F1ZY/2017-18 dated 08.12.2023, quash the same and further direct the respondent to pass order afresh after affording an opportunity to the petitioner to file their objections with supporting documents.

For Petitioner : Mr.A.Chandrasekaran

For Respondent : Mr. T.N.C.Kaushik
Addl. Govt. Pleader (Taxes)

ORDER

This writ petition is directed against the order dated 08.12.2023. The petitioner asserts that the show cause notice and other communications were uploaded on the "View Additional Notices and Orders" tab on the GST portal and were, consequently, not noticed by the petitioner. Since the order was issued *ex parte*, the petitioner seeks another opportunity.

2. Learned counsel for the petitioner submits that the tax proposal related to a 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 explain the mismatch satisfactorily. On instructions, he 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 notice in Form ASMT-10 dated 31.08.2023, show cause notice dated 20.09.2023 and by offering a personal hearing on 31.10.2023..

5. On perusal of the impugned order, it is clear that the tax proposal was confirmed on account of the fact that the petitioner did not reply to the show cause notice or participate in the personal hearing. By taking note of the assertion that such non-participation was on account of being unaware of proceedings, the interest of justice warrants reconsideration subject to putting the petitioner on terms.

6. Therefore, the impugned order dated 08.12.2023 is set aside

on condition that the petitioner remits 10% of the disputed tax demand 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 receipt of the petitioner's reply. In view of the assessment order being set aside, the bank attachment is raised.

7. W.P.No.18397 of 2024 is disposed of on the above terms. Consequently, W.M.P.Nos.20206 & 20207 of 2024 are closed. No costs.

11.07.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes/ No

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To

The Deputy State Tax Officer 2
Singanallur North Assessment Circle,
Coimbatore.

SENTHILKUMAR RAMAMOORTHY J.

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