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W.P.No.18612 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.18612 of 2024
and W.M.P.Nos.20408 & 20410 of 2024

M/s.Zenmed Solutions Private Limited,
Represented by Mrs.Aarthee Sudharsan,
Director,
Plot No.54, Seshachalam Street,
Saidapet, Chennai-600 015.

... Petitioner

-VS-

1. The Deputy Commissioner (ST) (Appeals),
No.1, PAPJM Buildings (Annexe),
3rd Floor, Greams Road, Chennai-06.

2. The Deputy State Tax Officer,
Saidapet Assessment Circle,
No.1, PAPJM Buildings (Annexe),
3rd Floor, Greams Road, Chennai-06.

... Respondents

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 order in proceedings in GSTIN/33AAACZ8617P1ZQ/2017-18 on the files of the 2nd respondent dated 30.12.2023 quash the same as being without jurisdiction, violative of principles of natural justice and hence invalid and illegal.

For Petitioner : Mr.S.Doraisamy
for Mr.V.Elangovan



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For Respondents : Mr.G.Nanmaran,
Spl. Govt. Pleader (Taxes)

ORDER

An order in original dated 30.12.2023 is challenged in this writ petition on the ground of breach of principles of natural justice.

2. The petitioner asserts that the show cause notice and other communications were not served on the petitioner and were merely uploaded on the common portal. On account of not being aware of proceedings, it is stated that the petitioner could not participate in proceedings culminating in the impugned order.

3. Learned counsel for the petitioner submits that the petitioner endeavoured to file an appeal before the first respondent, but that such appeal was not entertained on the ground of limitation. He also submits that the petitioner remitted 10% of the disputed tax demand while filing the appeal. On instructions, learned counsel submits that the petitioner agrees to remit an additional 5% of the disputed tax demand under the order in original as a condition for remand to the original authority for consideration.



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WEB COPY 4. Mr.G.Nanmaran, learned Special Government Pleader, accepts notice for the respondents. He submits that principles of natural justice were complied with by issuing intimation dated 19.05.2022, show cause notice dated 29.09.2023 and by offering a personal hearing.

5. On examining the impugned order, it is evident that the tax proposal was confirmed on the ground that the taxpayer had neither paid the tax nor replied to the show cause notice. By taking into account the assertion that such non-participation was on account of not being aware of proceedings, it is just and appropriate that the matter be remanded for reconsideration albeit by putting the petitioner on terms.

6. For reasons aforesaid, impugned order dated 30.12.2023 is set aside on condition that the petitioner remits an additional 5% 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 reply to the show cause notice. Upon receipt of the



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petitioner's reply and on being satisfied that 15% of the disputed tax demand, in the aggregate, was received, the second 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.

7. W.P.No.18612 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.20408 & 20410 of 2024 are closed.

30.07.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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To



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