IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.18229 of 2024 and
W.M.P.Nos.20018 & 20019 of 2024

M/s.Orange Media Solutions,
Represented by its Managing Partner,
Mr.D.Muralidharan,
Having Office at No.32, Ganga Nagar,
1st Cross Street, Kodambakkam,
Chennai-600 0245 ... Petitioner

Versus

1. The Commissioner (ST),
   Ezhilagam, Chepauk,
   Chennai-600 005.

2. The Assistant Commissioner (ST),
   The Commercial Tax Officer,
   Kodambakkam Assessment Circle,
   No.1, PAJMM Avenue Buildings,
   Chennai-600 006. ... Respondents

Prayer : A Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari, calling for the records relating to impugned order in reference No.ZD330324100229X, dated:16.03.2024, and consequential order of Notice for recovery, dated:25.03.2024, of the 2nd respondent herein, quash the same and consequently remand back the matter to the 2nd respondent for fresh consideration and to decide the matter on merits after giving reasonable opportunity to the petitioner.

For Petitioner : Mr.A.B.Rajasekaran

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

ORDER

An order in original dated 25.03.2024 is assailed in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that the show cause notice and other communications were uploaded on the GST portal but not communicated to the petitioner by physical service or any other

mode. On account of not being aware of the proceedings, it is stated that the petitioner could not participate in the same.

3. Learned counsel for the petitioner submits that the petitioner would be in a position to provide an explanation with regard to the confirmed tax proposal, if provided an opportunity. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondents. He submits that principles of natural justice were complied with by issuing intimation dated 28.12.2023 and show cause notice dated 08.01.2024. He also submits that a personal hearing was offered.

5. On perusal of the impugned order, it appears that the tax proposal was confirmed because the petitioner did not reply to the

show cause notice. The petitioner asserts that such non-participation was on account of not being aware of proceedings. In these facts and circumstances, the interest of justice warrants reconsideration by putting the petitioner on terms.

6. Therefore, the impugned order dated 16.03.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within three weeks 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 of the petitioner's reply 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. In view of the assessment order being set aside, the recovery proceedings are also set aside.

7. W.P.No.18229 of 2024 is disposed of on the above terms. Consequently, W.M.P.Nos.20018 & 20019 of 2024 are closed. No costs.

11.07.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes/ No

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SENTHILKUMAR RAMAMOORTHY J.

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To

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