



W.P.No.18572 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.18572 of 2024
and W.M.P.Nos.20360 & 20362 of 2024

Subhashri Constructions,
Represented by its Proprietor Mr.K.Madhavan
Flat B, No.80 NA, Thirupugazh Street,
Kamakshi Nagar, Valasaravakkam,
Chennai 600 087.

... Petitioner

-VS-

The Deputy Commercial Tax Officer,
Porur: Poonamallee: Kancheepuram,
No.4/109, Chennai-Bangalore Highways,
Nazarathpet, Chennai 600 123.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records the respondent in DRC 07 Reference Number ZD330424063825D / 2018-



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19 dated 08.04.2024 and quash the same as arbitrary, illegal.

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For Petitioner : Mrs.V.Vijayalakshmi

For Respondent : Mr.V.Prashanth Kiran, GA (T)

ORDER

An order in original dated 08.04.2024 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. The petitioner asserts that the show cause notice and other communications were uploaded on the common portal and not communicated to the petitioner through any other mode. Since the petitioner had entrusted GST compliances to a consultant and such consultant failed to inform the petitioner about the proceedings, it is stated that the petitioner could not contest the tax demand on merits.



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2. Learned counsel for the petitioner submits that the confirmed tax proposals related to a mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A as also between the auto GSTR 3B returns and the deductions made by recipients of service, as reflected in the GSTR 7 returns. If provided an opportunity, learned counsel submits that the petitioner would be in a position to establish that only eligible ITC was claimed and that there was no suppression of outward supply. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing intimation dated 28.07.2023, show cause notice dated 29.11.2023 and by offering a



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personal hearing. He also points out that the show cause notice and other communications were not uploaded on the “view additional notices and orders” tab of the common portal.

4. On perusal of the impugned order, it is clear that the tax proposals were confirmed because the tax payer failed to respond to the show cause notice or avail of the personal hearing opportunities. By taking into account the assertion that such non participation was on account of not being aware of proceedings, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits by putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 08.04.2024 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 of the



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petitioner's reply 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.

6. W.P.No.18572 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.20360 and 20362 of 2024 are closed.

31.07.2024

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

The Deputy Commercial Tax Officer,
Porur: Poonamallee: Kancheepuram,
No.4/109, Chennai-Bangalore Highways,
Nazarathpet, Chennai 600 123.



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SENTHILKUMAR RAMAMOORTHY,J

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