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W.P.No.18856 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.18856 of 2024
and W.M.P.Nos.20690, 20691 & 20692 of 2024

Prakash Fabricators & Electricals,
Represented by its Sole Proprietor,
R.Balaprakash,
Gandhi Street, Budur Post,
Angadu Village, Ponneri,
Chennai, Tamil Nadu-600 067.

... Petitioner

-VS-

1. Assistant Commissioner (ST) (FAC).
Ponneri Assessment Circle,
Chennai.

2. Canara Bank,
Rep. By its Branch Manager,
Survey No.68/12, GNT Road,
Sembulivaram, Sholavaram,
Thiruvallur Dist-600 062.

3. Assistant Commissioner (ST)
Zone-III, Admn. State
Ponneri, Chennai (North)

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the files of the 1st Respondent herein in GSTIN/33ANFPB7718Q1ZP/2019-20 dated 27.05.2023 and quash the same.

For Petitioner : Mr.B.Syed Abdul Wakeel
for M/s .Siri Chandana, K, Vishnupriya,S
& Mr.Rajkumar, M.

For Respondents : Mr.T.N.C.Kaushik
Addl. Govt. Pleader(T) for R1 & R3

An order in original dated 27.05.2023 is impugned herein on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that GST compliances were entrusted to a chartered accountant and that the petitioner was not aware of proceedings until receipt of bank attachment notice dated 03.01.2024. Immediately thereafter, it is stated that the petitioner filed a statutory appeal, but such appeal was rejected on the ground of limitation.



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3. Learned counsel for the petitioner submits that 10% of the disputed tax demand was remitted while filing the statutory appeal. On instructions, he submits that the petitioner agrees to remit an additional 5% of the disputed tax demand as a condition for remand. He also submits that the bank account of the petitioner was attached and that a lien was marked for a sum of Rs.5,04,326/-.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the first and third respondents. He submits that principles of natural justice were complied with by issuing intimation dated 29.03.2023, show cause notice dated 18.04.2023 and by offering a personal hearing.

5. On examining the impugned order, it is clear that the tax proposal was confirmed solely on the ground that the taxpayer did not reply to the intimation or show cause notice. The petitioner asserted in the affidavit that non-participation was on account of not



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being aware of proceedings. While lodging the statutory appeal, 10% of the disputed tax demand was remitted. The petitioner agreed to remit an additional 5% of the disputed tax demand. In these facts and circumstances, reconsideration is necessary subject to terms.

6. Therefore, the impugned order dated 27.05.2023 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 submit a reply to the show cause notice. Upon receipt of the petitioner's reply and on being satisfied that 15% of the disputed tax demand, in the aggregate, 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 bank attachment is raised.



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7. W.P.No.18856 of 2024 is disposed of on the above terms.

Consequently, W.M.P.Nos.20690, 20691 & 20692 of 2024 are closed.

No costs.

23.07.2024

Index : Yes / No

(2/2)

Internet : Yes / No

Neutral Citation : Yes / No

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SENTHILKUMAR RAMAMOORTHY J.

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To

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