



WEB COPY



W.P.No.18340 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.18340 of 2024
and W.M.P.Nos.20147 & 20148 of 2024

M/s.Surral Surface Coating Pvt. Ltd.,
Represented by its Director,
Plot No.20-21 Baskar Nagar,
Velanur, Avadi,
Chennai 600 062.

... Petitioner

-VS-

1.The Assistant Commissioner (ST),
Thirumullaivoyal Assessment Circle,
Integrated Commercial Tax Buildings,
No.32 Elephant Gate Bridge Road,
Chennai 600 003.

2.The Branch Manager,
Bank of India,
W-124, 3rd Avenue,
Anna Nagar, Chennai.

... 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 of the first respondent in his proceedings in GSTIN: 33AAMCS1832R2ZT/2021-22, quash the order dated 25.01.2023 passed therein.

For Petitioner : Mr.P.V.Sudakar

For Respondent 1 : Mr.V.Prashanth Kiran, GA (T)

ORDER

An order in original dated 25.01.2023 is challenged 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 “view additional notices and orders” tab in the GST portal and not



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communicated to the petitioner through any other mode. In view thereof, it is stated that the petitioner was unaware of proceedings until the bank account was attached.

2. Learned counsel for the petitioner submits that the confirmed tax proposal pertains 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 establish that only eligible Input Tax Credit was claimed. Learned counsel submits that the entire tax demand was appropriated from the petitioner's bank account.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the first respondent. He submits that principles of natural justice were complied with by issuing intimation dated 04.07.2022, show cause notice dated 21.11.2022 and by offering a personal hearing.



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4. On perusal of the impugned order, it is clear that the tax proposal was confirmed solely on the ground that the tax payer failed to reply to the show cause notice. In view of the assertion that such non participation was on account of being unaware of proceedings, it is just and necessary that an opportunity be provided to the petitioner to contest the tax demand on merits. In this connection, it should be noticed that a sum of Rs.8,02,276/- was appropriated from the petitioner's bank account. This amount covers not only the tax liability but also interest and penalty. Therefore, revenue interest stands fully secured at this juncture.

5. For reasons aforesaid, impugned order dated 25.01.2023 is set aside and the matter is remanded for re-consideration. The petitioner is permitted to submit a reply to the show cause notice within *fifteen days* from the date of receipt of a copy of this order. Upon receipt thereof, the first respondent is directed to provide a reasonable



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opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of *three months* from the date of receipt of the petitioner's reply. For the avoidance of doubt, it is made clear that the amount appropriated from the petitioner's bank account shall abide by the outcome of the remanded proceedings.

6. W.P.No.18340 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.20147 and 20148 of 2024 are closed.

24.07.2024

rna
Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

1.The Assistant Commissioner (ST),
Thirumullaivoyal Assessment Circle,
Integrated Commercial Tax Buildings,
No.32 Elephant Gate Bridge Road, Chennai 600 003.

2.The Branch Manager,

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SENTHILKUMAR RAMAMOORTHY,J

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