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W.P.No.21031 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.21031 of 2024
and W.M.P.Nos.22988 & 22989 of 2024

T.Rajkumar

... Petitioner

-VS-

1.The State Tax Officer,
Valluvarkottam Assessment Circle,
Palaniappa Tower, Greams Road,
Chennai-06.

2.The Commercial Tax Officer,
Valluvarkottam, Central-III,
Chennai Central, Tamil Nadu.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records on the files of the 1st Respondent herein in GSTIN/33ADJPT8662R1ZH/2019-2020 dated 25.08.2023 and consequential order passed by the 2nd Respondent in Reference No.ZD330823146108H dated 25.08.2023 and quash the same.



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For Petitioner : Mr.A.N.R.Jayaprathap

WEB COPY For Respondents : Mr.C.Harsharaj, AGP (T)

ORDER

An order in original dated 25.08.2023 is assailed in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax proposal on merits. The petitioner asserts that the show cause notice and other communications were uploaded on the GST portal in the “View Additional Notices and Orders” tab and not communicated to the petitioner through any other mode. It is further stated that the accountant was unwell during the relevant period and, therefore, the petitioner was unaware of proceedings.

2. Learned counsel for the petitioner referred to the impugned order and pointed out that the petitioner has the requisite documents to explain discrepancies 1, 2, 3 and 5, which pertain to mismatches between returns. As regards issue no.4, he points out that the petitioner would remit interest as per the demand made. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.



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3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondents. He submits that principles of natural justice were complied with by issuing intimation dated 06.08.2022, show cause notice dated 18.11.2022 and by offering a personal hearing.

4. On perusal of the impugned order, it appears that tax proposals 2, 3 and 4 dealt with therein were confirmed because the tax payer did not reply to the show cause notice and did not furnish the documents. By taking into account the assertion that such non participation was on account of not being aware of proceedings, it is just and necessary to provide an opportunity to the tax payer to contest tax proposals 2 and 3 on merits. It is further necessary that the petitioner be put on terms in respect thereof.

5. For reasons aforesaid, the impugned order dated 25.08.2023 is set aside in part only in so far as tax proposals 2 and 3 are concerned subject to the condition that the petitioner remits 10% of the disputed tax demand in respect thereof as agreed to within a period of two weeks from the date of receipt of a copy of this order. The petitioner is permitted to submit a reply



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to the show cause notice within the aforesaid period. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand as regards tax proposals 2 and 3 was received, the 1st respondent is directed to provide a reasonable 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. In view of the assessment order being set aside partly, the bank attachment is raised.

6. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

01.08.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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SENTHILKUMAR RAMAMOORTHY,J

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