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W.P.No.27855 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.No.27855 of 2024

and W.M.P.Nos. 30383, 30385, 30386, 30399 and 30407 of 2024

Tvl.Supreme Industrial Co.  
Rep. by its Proprietor Saifuddin Huzefa  
S/o Saifuddin T.  
No.118, Linghi Chetty Street  
Parrys, Chennai – 600 001

.... Petitioner

Vs.

1.The Tax Officer  
Harbour Assessment Circle,  
No.327, 3<sup>rd</sup> Floor,  
Integrated Commercial Taxes Building  
Elephant Gate Bridge Road,  
Vepery, Chennai – 600 003.

2.The Assistant Commissioner(ST)  
Harbour Assessment Circle,  
No.327, 3<sup>rd</sup> Floor,  
Integrated Commercial Taxes Building  
Elephant Gate Bridge Road,  
Vepery, Chennai – 600 003.

3.The Branch Manager,  
IDBI Bank, Sri Kanyaka  
Parameswari Ars and Science  
College for Women,  
No.1, Audiappa Naicken Street,  
Chennai – 600 001.

4. The Branch Manager  
Punjab National Bank,



W.P.No.27855 of 2024

158, Linghi Chetti Street,  
Chennai

...

Respondents

**Prayer:-** Writ Petition is filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned show cause notice vide reference No.ZD331223223830X dated 2712/2023 and impugned order reference No.ZD330424221885F dated 27/04/2024 are without jurisdiction, arbitrary, against the provisions of law, principles of natural justice on the file of the 1<sup>st</sup> respondent and quash the same and direct the 1<sup>st</sup> respondent to allow the ITC which is eligible u/s 16(1) of TNGST/CGST Act.

For Petitioner : Mr.K.Thyagarajan

For Respondents : Mr.G.Nanmaran  
Special Government Pleader (Tax)  
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### **ORDER**

By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

2. Mr.G.Nanmaran, learned Special Government Pleader(T) takes notice on behalf of the respondents.

3. The present writ petition has been filed to call for the records relating to the impugned show cause notice vide reference No.ZD331223223830X dated 2712/2023 and impugned order reference No.ZD330424221885F dated 27/04/2024 are without jurisdiction,



W.P.No.27855 of 2024

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arbitrary, against the provisions of law, principles of natural justice on the file of the 1<sup>st</sup> respondent and quash the same and direct the 1<sup>st</sup> respondent to allow the ITC which is eligible u/s 16(1) of TNGST/CGST Act.

4. The learned counsel for the petitioner submits that the show cause notice dated 27.12.2023 and the impugned order dated 27.04.2024 were uploaded in the portal and that too in "additional notice and order" column and the petitioner was not able to defend the case. Even the personal hearing notice and all the communications were also issued in the same portal, the petitioner has not appeared for the same. Hence, the petitioner has not filed a reply. Therefore, the order passed by the respondent is in violation of principles of natural justice. He further submitted that the petitioner had already deposited a sum of Rs.53,72,810/- out of the total tax liability of Rs.95,00,000/- and hence, the order passed by the respondent may be set aside and remanded the matter back to the respondent for reconsideration.

5. The learned Special Government Pleader (T) appearing for the Respondents would submit that though the notice was uploaded by the respondent in the web portal, the petitioner had failed to appear before the respondent for personal hearing. However, he would fairly submit that if



W.P.No.27855 of 2024

WEB COPY

any order is passed by this Court, the same will be complied with by the respondent.

6. Heard the learned counsel for the petitioner and the learned Special Government Pleader(T) for the respondent and perused the materials placed before this Court.

7. In the present case, the petitioner had already deposited 50% of the disputed tax liability. Moreover, it appears that the notices have been uploaded in the portal under the "view additional notices and orders" column and the same were not at all physically served to the petitioner, due to which, the petitioner was unaware about the said notice. Hence, the reasons provided by the petitioner for being unaware of the notice, which was uploaded in the web portal, are appears to be genuine.

8. Further, this Court is of the view that no order can be passed without providing sufficient opportunities to the petitioner. However, in the present case, no reply was filed by the petitioner and no opportunity of personal hearing was provided to the petitioner. Hence, the impugned order is liable to be set aside.

9. Accordingly, the impugned order dated 27.04.2024 is set aside and remanded the matter back to the respondent for fresh consideration. The



W.P.No.27855 of 2024

WEB COPY

petitioner is directed to file a reply within a period of two (2) weeks from the date of receipt of a copy of this order. After receipt of the reply, the authorities concerned shall fix a date for personal hearing by sending a physical notice to the petitioner and thereafter, pass orders on merits and in accordance with law.

10. Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner cannot survive any longer and hence, it is lifted. As a sequel, the 3<sup>rd</sup> and 4<sup>th</sup> respondents are directed to release the attachment and de-freeze the account of the petitioner, immediately upon the production of a copy of this order.

11. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

27.09.2024

Index: Yes/No  
Web: Yes/No  
Speaking/Non Speaking  
msv



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KRISHNAN RAMASAMY, J.

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