



W.P.No.33770 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.33770 of 2023
and W.M.P.Nos.33610 & 33611 of 2023

Arihant Motors,
(Represented by its Partner),
Mr.A.Amish Kumar),
123A, GNT Bye Pass Road,
RED HILLS, Chennai,
Tamil Nadu – 600 052.

... Petitioner

-vs-

1.The Commercial Tax Officer,
Madhavaram-Zone-III-Chennai North
Room No.105, First Floor,
Integrated Commercial Taxes Building,
Wall Tax Road, Chennai-600 003,
Tamil Nadu.

2.The Assistant Commissioner (State Tax)(FAC)
Madhavaram Assessment Circle
Integrated Commercial Taxes Building,
No.32, Elephant Gate Bridge Road,
Chennai 600 003.

... Respondents



W.P.No.33770 of 2023

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 file of the Respondent herein, in his proceedings in Reference No.33ABBFA4964H1ZL/2019-20 dated 23.03.2023, along with the form DRC-07 in ZD330323112769H dated 23.03.2023 for the tax period February 2020 to March 2020 and quash the same.

For Petitioner : Ms.Vishnupriya
for Mr.J.Shankarraman

For Respondent : Mr.C.Harsha Raj, AGP (T)

ORDER

An order dated 23.03.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.



W.P.No.33770 of 2023

2. By asserting that the show cause notice and other communications leading to the impugned order were uploaded on the GST portal but not communicated to the petitioner through any other mode, the present writ petition was filed.

3. Learned counsel for the petitioner submits that the tax proposal related to belated filing of returns and the rejection of input tax credit under Section 16(4) of applicable GST enactments. In view of not being aware of proceedings, she submits that the petitioner could not participate in proceedings. If provided an opportunity, learned counsel submits that the petitioner would be in a position to establish that only eligible input tax credit was availed. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondents. He submits that principles of



W.P.No.33770 of 2023

natural justice were complied with by issuing intimation dated 15.12.2022, show cause notice dated 20.01.2023 and multiple reminders.

5. On examining the impugned order, it is evident that the tax proposal, which related to rejection of ITC on account of belated filing of returns, was confirmed because the petitioner did not reply to the show cause notice. By taking into account the assertion that the petitioner could not participate on account of being unaware of proceedings, the interest of justice warrants reconsideration by putting the petitioner on terms.

6. For reasons aforesaid, the impugned order dated 23.03.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within *two weeks* 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 thereof and



W.P.No.33770 of 2023

on being satisfied that 10% of the disputed tax demand 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 a copy of the petitioner's reply.

7. W.P.No.33770 of 2023 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.33610 and 33611 of 2023 are closed.

01.07.2024

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

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W.P.No.33770 of 2023

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W.P.No.33770 of 2023
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