



W.P.No.36438 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.36438 of 2023
and W.M.P.Nos.36449, 36450 of 2023

Brakes India Private Limited,
Represented by its
Executive Director - Finance & CFO
Mr.G.Shankar,
MTH Road, Padi
Chennai 600 050.

... Petitioner

-VS-

Assistant Commissioner (ST)
Ambattur Assessment Circle
Integrated Buildings Commercial Taxes and
Registration Department
South Tower, Room No.322,
3rd Floor, Nandanam, Chennai 600 035.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the respondent passed in GSTIN:



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33AAACB2533Q1ZP/2018-19 dated 30.10.2023 quash the same as the

impugned proceedings is without jurisdiction, arbitrary and in violation of principles of natural justice and further, direct the respondent to re-do the adjudication in accordance with law and issue any other writ.

For Petitioner : Mr.N.Murali

For Respondent : Mr.C.Harsha Raj, AGP

ORDER

This writ petition is directed against the order dated 30.10.2023 in respect of the assessment year 2018 - 2019. The petitioner states that it is a registered person under the current GST regime. The respondent initially issued a notice dated 14.02.2023 proposing to block the petitioner's Input Tax Credit (ITC) under Rule 86-A of the TNGST / CGST Rules, 2017 in respect of purchases made from



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M/s.Quality Traders on the ground that they are not in existence or are bill traders. A reply was issued to such notice on the same date.

Thereafter, it is stated that the respondent issued show cause notice dated 09.10.2023. The petitioner asserts that the said show cause notice was served on the petitioner by e-mail on 25.10.2023. The show cause notice fixed the personal hearing on the same date at 02.00 pm, i.e. within two hours from the time of receipt of e-mail. Consequently, the petitioner contends that a reasonable opportunity was not provided to the petitioner to submit relevant documents and, more importantly, explain the facts and circumstances. The present writ petition was filed in the said facts and circumstances.

2. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice on behalf of the respondent. He submits that the show cause notice dated 09.10.2023 was despatched to the petitioner by registered post with acknowledgment due. Therefore, he submits that the petitioner was provided a reasonable opportunity and that



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no case is made out for interference.

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3. As a consequence of the impugned order, the petitioner has been directed to reverse ITC of a substantial value. Such action has been taken pursuant to a show cause notice dated 09.10.2023, which the petitioner asserts was received on the date of hearing. These facts reveal that a reasonable opportunity was not provided to the petitioner to submit necessary documents and provide an explanation to the respondent. On this limited ground, albeit without expressing any opinion on the merits in the matter, the impugned order calls for interference.

4. Accordingly, W.P.No.36438 of 2023 is allowed by quashing the impugned order dated 30.10.2023 and remanding the matter for re-consideration. The respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and dispose of the matter by a reasoned order. The petitioner shall



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provide all relevant documents to the respondent on or before 24.01.2024. Upon receipt thereof, after providing a personal hearing, a reasoned order shall be issued within a period of *four weeks* from the date of receipt of the documents. There shall be no order as to costs. Consequently, W.M.P.Nos.36449, 36450 of 2023 are closed.

03.01.2024
(1/2)

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

Assistant Commissioner (ST)
Ambattur Assessment Circle
Integrated Buildings Commercial Taxes and
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SENTHILKUMAR RAMAMOORTHY,J

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