

2024 (85) G.S.T.L. 406 (Mad.)

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Senthilkumar Ramamoorthy, J.

SRI VARI ENGINEERING INDUSTRIES

Versus

STATE TAX OFFICER, CHENNAI

W.P. No. 9863 of 2024 and W.M.P. Nos. 10873, 10874 & 10875 of 2024, decided on 15-4-2024

Demand - Violation of natural justice - Assessee's consultant who was engaged for GST compliance failed to inform assessee about proceedings with regard to tax demand arose entirely on account of belated filing of returns - Assessee sought for remanding issue and was willing to remit 10% of disputed tax demand as a condition of remand - Revenue pointed out that show cause notice was followed by several reminders to assessee and that assessee had come to Court belatedly - *HELD* : Impugned order was issued entirely on basis that returns were filed belatedly by assessee - It also followed from said order that assessee did not participate in proceedings and that tax demand was confirmed in view of assessee's failure in reply - Therefore, solely for purpose of providing opportunity to assessee to contest demand on merits impugned order confirming tax demand was to be set aside on condition that assessee remits 10% of disputed tax demand - Section 75 of Central Goods and Services Tax Act, 2017 - Section 75 of Tamil Nadu Goods and Services Tax Act, 2017. *[paras 5 and 6]*

Petition disposed of in favour of assessee

REPRESENTED BY : Shri V. Vijayalakshmi, for the Petitioner.

Shri T.N.C. Kaushik, Addl. Government Pleader (Taxes), for the Respondent.

[Order]. - An order dated 3-3-2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that the consultant who was engaged for GST compliances failed to inform the petitioner about proceedings culminating in the impugned order.

3. Learned Counsel for the petitioner submits that the confirmed tax demand arose entirely on account of belated filing of returns. She points out that this Court interfered in several matters of this nature previously. She further submits that the petitioner is willing to remit 10% of the disputed tax demand as a condition of remand.

4. Mr. T.N.C. Kaushik, Learned Additional Government Pleader, accepts notice for the respondents. By drawing reference to the impugned order, he points out that the show cause notice was followed by several reminders to the petitioner. He also points out that the petitioner has come to Court belatedly and that the order was issued in March, 2023.

5. On perusal of the impugned order, it is evident that such order was issued entirely on the basis that returns were filed belatedly by the petitioner. It also follows from the order that the

petitioner did not participate in proceedings and that the tax demand was confirmed in view of the petitioner's failure in reply. In these circumstances, solely for the purpose of providing an opportunity to the petitioner to contest the tax demand on merits, interference with the impugned order is warranted.

6. Therefore, the impugned order dated 3-3-2023 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 aforesaid period, the petitioner is also permitted to submit a reply to the show cause notice. Upon receipt of the petitioner's reply and upon 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 two months from the date of receipt of the petitioner's reply.

7. W.P. No. 9863 of 2024 is disposed of on the above terms and connected miscellaneous petitions are closed. No costs.