

W.P.No.11342 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 30.04.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.11342 of 2024
and W.M.P.Nos.12436 & 12437 of 2024

M/s.Arupadai Infrastructure
Represented by its Partner,
Mr.Arumugasamy Subramaniam,
No.4/90, Thendral Street, Otteri, Vandalur,
Kancheepuram 600 048.

... Petitioner

-VS-

1.The Deputy State Tax Officer - 2 (ST)
Maduranthakam Assessment Circle,
15/9, Car Street,
Maduranthagam 603 306.

2.The Branch Manager,
Syndicate Bank,
Nanganallur Alandur CAC Branch,
35, MGR Road, Nanganallur,
Chennai 600 061.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of

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India, pleased to issue a Writ of Certiorari, calling for the records leading to the issuance of assessment order bearing reference GSTIN: 33AAZFA2737R1ZN/2017-18 dated 17.11.2023 passed by the first respondent herein and quash the same.

For Petitioner : Ms.S.P.Sri Harini

For Respondent 1 : Mr.V.Prashanth Kiran, GA (T)

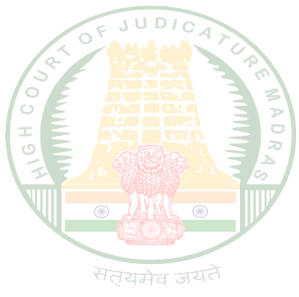
ORDER

An assessment order dated 17.11.2023 is challenged in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that he was unaware of proceedings culminating in the order impugned herein until after such order was issued. The present writ petition was filed after filing a rectification petition, which was rejected.



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WEB COPY 2. Learned counsel for the petitioner referred to the impugned order and pointed out that such order deals with two issues. As regards the first issue pertaining to the difference between the petitioner's GSTR 3B returns and the GSTR 1 statement, she points out that the petitioner remitted the tax dues relating thereto under DRC 03 dated 30.11.2023. With regard to the second issue pertaining to RCM liability mismatch, she points out that the mismatch occurred on account of an inadvertent error committed by the petitioner while filing GSTR 3B returns during the relevant assessment period. In particular, she submits that the petitioner specified the amounts in the row pertaining to 'inward supplies liable to reverse charge' instead of specifying it in the row relating to 'all other ITC'. By pointing out that the tax demand was recovered partly from the petitioner's electronic credit ledger and partly from the bank account of the petitioner, she seeks another opportunity to contest the RCM liability mismatch issue.



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WEB COPY 3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that the impugned order was preceded by an intimation, a show cause notice and personal hearing notices.

4. The petitioner has placed on record proof of payment of tax dues relating to the difference between the petitioner's GSTR 3B and GSTR 1. As regards the RCM liability mismatch, the petitioner has placed on record the relevant GSTR 3B returns to substantiate the contention that the tax proposal was the result of an inadvertent error. Since the tax dues appear to have been recovered, revenue interest has been secured at this juncture.

5. Therefore, impugned order dated 17.11.2023 is set aside insofar as it relates to RCM liability mismatch and the matter is remanded for reconsideration by the first respondent. The petitioner



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is directed to submit a reply to the show cause notice within *fifteen*

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days from the date of receipt of a copy of this order. 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 the petitioner's reply. For the avoidance of doubt, it is made clear that the amounts appropriated in relation to the RCM liability mismatch shall abide by the outcome of the remand.

6. W.P.No.11342 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.12436 and 12437 of 2024 are closed.

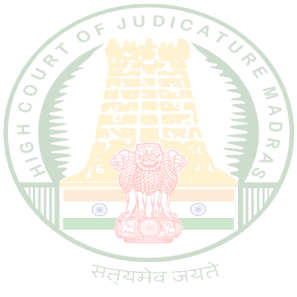
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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No



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SENTHILKUMAR RAMAMOORTHY,J

rna

To

- 1.The Deputy State Tax Officer - 2 (ST)
Maduranthakam Assessment Circle,
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