

W.P.No.10319 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 18.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10319 of 2024 and
W.M.P.Nos.11318 & 11321 of 2024

M/s.Tristar Logistics,
Represented by its Proprietor Hari Babu,
No.123, Coral Merchant Street,
Mannady, Chennai-600 001.

...Petitioner

Vs.

1. State Tax Officer,
Muthialpet Assessment Circle,
Integrated Commercial Taxes Building,
Room No.317, 3rd floor,
Elephant Gate Bridge Road,
Chennai-600 003.

2. Assistant Commissioner (ST),
Muthialpet Assessment Circle,
No.32, Integrated Commercial Taxes Building,
Elephant Gate Bridge Road,
Chennai-600 003.

3. Branch Operating Manager,
M/s.Standard Chartered Bank,
19, Rajaji salai, Chennai-600 001.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records



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relating to the impugned order bearing reference no.GSTIN 33AHSPB9111E2ZM/2017-2018 dated 06.10.2023 passed by the 1st respondent and quash the same and consequently, direct the 2nd respondent to refund the amount recovered from the petitioner bank account.

For Petitioner : Mr.P.Gowtham
for Mr.G.Natarajan

For RR1 & 2 : Mr.V.Prashanth Kiran,
Government Advocate (T)

ORDER

An order dated 06.10.2023 is the subject of challenge in this writ petition.

2. The petitioner asserts that he was unaware of proceedings culminating in the impugned order until his bank, Standard Chartered Bank, informed him about the order. The present writ petition was filed in the said facts and circumstances.

3. Learned counsel for the petitioner submits that the petitioner was unable to respond to the show cause notice or attend the personal



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hearing on account of being unaware of the same. He points out that such notice and order were uploaded on the portal but not communicated to the petitioner through any other mode. He points out that pursuant to the impugned order, the bank account of the petitioner was attached and the entire liability under the impugned order, including tax and penalty was appropriated from his bank account.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for respondents 1 & 2. He points out that the intimation was issued to the petitioner in August 2023 and that the show cause notice was issued on 16.08.2023. He also points out that a personal hearing was provided in September 2023 before the impugned order was issued.

5. On perusal of the impugned order, it appears that the tax liability pertains to the discrepancy between the GSTR 3B and GSTR 1 returns. It is also evident that the tax proposal was confirmed without the participation of the petitioner. At this juncture, the entire tax liability has been realised by appropriating the amount from the petitioner's bank account. As such, revenue interest stands fully secured. In these circumstances, it is just and appropriate that an opportunity be provided



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to the petitioner to contest the tax demand on merits.

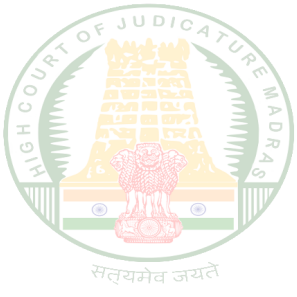
WEB COPY 6. Solely for reasons set out above, the impugned order dated 06.10.2023 is set aside and the matter is remanded for reconsideration. The petitioner is permitted to submit a reply within two weeks from the date of receipt of a copy of this order. Upon receipt thereof, the 1st respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of three months from the date of receipt of the petitioner's reply. For the avoidance of doubt, it is made clear that amounts appropriated from the petitioner's bank account shall abide by the outcome of the remanded proceedings.

7. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

18.04.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

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To

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SENTHILKUMAR RAMAMOORTHY,J.

Kj

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