



MAJESTY LEGAL  
Advocates & Solicitors

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**“OPPORTUNITY FOR FILLING REPLY IS MUST”**

**“TVL. YESEM MARKETING VS DEPUTY COMMERCIAL TAX OFFICER”**

Hon'ble High Court of Madras, in the case of TvL. *Yesem Marketing Vs Deputy Commercial Tax Officer*<sup>1</sup>, A writ petition challenged an original order dated 17.10.2023, citing breach of natural justice principles as the petitioner was unable to respond to a show cause notice due to personal difficulties. Petitioner contended that the tax proposal was based solely on discrepancies between GSTR 1 and GSTR 3B returns, without a fair opportunity to defend. Hon'ble court remanded the matter, directing the petitioner to remit 10% of the disputed tax demand within two weeks and allowed submission of a reply to the notice. It instructed the respondent to provide a fresh decision within three months after considering the petitioner's response and conducting a personal hearing. The writ petition is disposed of on the above terms.

TEAM MAJESTY LEGAL<sup>2</sup>

OFFICE : B-87, Alaknanda Apartment, G-1, Ganesh Marg/Moti Marg, Babu Nagar, Jaipur, Rajasthan-302015, [https://maps.app.goo.gl/BsUvY9RWyvUt6JcB9?g\\_st=iw](https://maps.app.goo.gl/BsUvY9RWyvUt6JcB9?g_st=iw),

Chamber:204, E-Block, Rajasthan High Court, Jaipur.

Mobile No. : 9785461395

E-MAIL : [mahi@majestylegal.in](mailto:mahi@majestylegal.in)

WEBSITE : [www.majestylegal.in](http://www.majestylegal.in)

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<sup>1</sup> W.P. No. 9960 of 2024

<sup>2</sup> Majesty legal is a LAW FIRM established in 2013 by Ms. Mahi Yadav. Objective of this legal update is to provide insights on law, statutes and is personal in nature, not to be deemed as legal advice.



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W.P.No.12598 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **06.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**Writ Petition No.12598 of 2024 and**  
**W.M.P.Nos.13760 & 13762 of 2024**

Tvl. Yesem Marketing,  
Represented by its Proprietrix,  
No.232, Annai Sathiya Nagar Main Road,  
Arumbakkam, Chennai-600 106.

... Petitioner

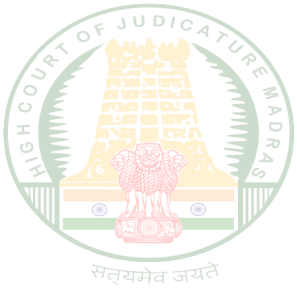
-vs-

The Deputy Commercial Tax Officer,  
Arumbakkam Assessment Circle-II,  
No.F-50, 2<sup>nd</sup> floor, First Avenue,  
Anna Nagar, Chennai-600 102.

... Respondent

**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the order of assessment bearing Reference No.ZD331023096404P in DRC07/GSTN/33ACJPT1399J1Z3/2017-2018 dated 17.10.2023 and quash the same as being without jurisdiction, authority of law.

1/6



W.P.No.12598 of 2024

WEB COPY For Petitioner : Mr.R.Ganesh Kanna

For Respondent : Mrs.K.Vasanthamala, Govt. Adv. (T)

### **ORDER**

An order in original dated 17.10.2023 is assailed on the ground of breach of principles of natural justice. The petitioner asserts that she was unable to respond to the show cause notice on account of personal difficulties. Since the petitioner was unable to defend the tax proposal on merits, the present writ petition was filed.

2. Apart from the denial of reasonable opportunity of hearing, learned counsel for the petitioner submits that statutory rules were violated by initiating action entirely on the basis of a mismatch between the GSTR 1 statement and GSTR 3B returns. If provided an opportunity, he submits that the petitioner would be in a position to establish that the tax proposal should be dropped. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

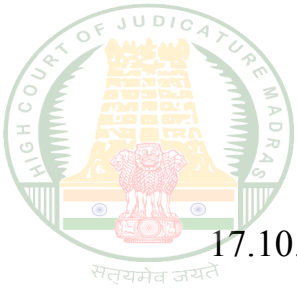


W.P.No.12598 of 2024

**WEB COPY** 3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She points out that the impugned order was preceded by a show cause notice dated 13.03.2023 and about three reminders. She also submits that Rule 88C of the Central Goods and Services Tax Rules, 2017 is inapplicable to the present proceedings and that the said rule would only apply in relation to assessments for the period subsequent to 07.01.2022.

4. On perusal of the impugned order, it is evident that the confirmed tax proposal relates entirely to a mismatch between the GSTR 1 statement and the GSTR 3B return. Such proposal was confirmed because the petitioner did not reply to the show cause notice or attend personal hearing. In these circumstances, albeit by putting the petitioner on terms, it is just and necessary that the petitioner be provided an opportunity to contest the tax demand on merits.

5. Solely for reasons set out above, the impugned order dated



W.P.No.12598 of 2024

17.10.2023 is set aside and the matter is remanded for reconsideration on condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of two weeks from the date of receipt of a copy of this order. Within the aforesaid period, the petitioner is permitted to submit a reply to the show cause notice. Upon receipt of the petitioner's reply and upon being satisfied that the 10% of the disputed tax demand was received, the 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.

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

**06.06.2024**

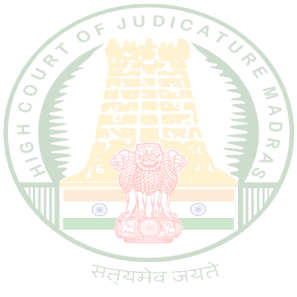
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W.P.No.12598 of 2024

**SENTHILKUMAR RAMAMOORTHY,J**

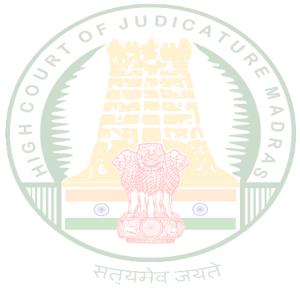
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To

The Deputy Commercial Tax Officer,  
Arumbakkam Assessment Circle-II,  
No.F-50, 2<sup>nd</sup> floor, First Avenue,  
Anna Nagar, Chennai-600 102.

Writ Petition No.12598 of 2024 and  
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5/6



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W.P.No.12598 of 2024

06.06.2024