IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.661 of 2023
and
W.M.P.Nos.606 & 608 of 2023

M/s.T.P.S.Construction Company,
Represented by its Managing Partner TPS Sekar,
39/3A Dharmapuri Main Road,
Sikkanampatti Village,
Kadayampatti, Salem – 636 309. ... Petitioner

Vs.

The Assistant Commissioner (State Taxes),
Viswam Building Complex,
Behind Periyamariamman Koil Street,
Omalur, Salem District. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari, to call for the records and quashing the impunged order in Form DRC-07 dated 20.12.2022 bearing ref No.ZD3312220775420 along with the detailed order of the sme date passed by the respondent.

For Petitioner : M/s.K.Aarthy

For Respondent : Mr.C.Harsharaj
Additional Government Pleader (T)

ORDER

Mr.C.Harsharaj, learned Additional Government Pleader (Tax) takes notice on behalf of the respondent.

2.The petitioner has challenged the impugned order dated 20.12.2022. The impugned order is said to have been passed under Section 73 of the respective GST enactment for the period between October 2021 to March 2022. According to the petitioner, the petitioner had received only a summary of show cause notice on 17.11.2022 and therefore, the petitioner responded to the same by filing an interim reply on 28.11.2022, wherein, the petitioner has called upon the respondent to furnish the details. It is further submitted that the petitioner was not called for a personal hearing.

3.The learned Additional Government Pleader appearing for the respondent, on the other hand, would submit that the petitioner was also issued with a detailed show cause notice and also called for a personal hearing. However, the petitioner failed to appear. Therefore, the impugned order came to be passed on 20.12.2022.

4.I have persued the impugned order and the communication which have been filed by the petitioner at various stages. It is noticed that after the petitioner was served with a draft show cause notice dated 17.11.2022, the petitioner had sent a reply on 28.11.2022. The petitioner had uploaded the reply in form GST. It looks that by oversight, the petitioner has opted for no personal hearing. Perhaps, on account of this, the impugned order has been passed.

5.However, a reading of the impugned order indicates that there is no discussion on the reply of the petitioner dated 28.11.2022, wherein, the petitioner has called upon the respondent to furnish details.

6.Considering the above, the impugned order is set aside and the case is remitted back to the respondent to pass a speaking order within a period of 45 days from the date of receipt of a copy of this order. As, the impugned order which stands quashed today, the impugned order shall be treated as a show cause notice. The petitioner shall file a reply to the same, within a period of 15 days from the date of receipt of a copy of this order. The respondent shall thereafter pass a detailed speaking order on merits and in accordance with law within a period of 30 days thereafter. In view of the above, all recovery proceedings shall stands abated.

7.This writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

11.07.2023

Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking Order
Neutral Citation:Yes/No
jas

To

The Assistant Commissioner (State Taxes),
Viswam Building Complex,
Behind Periyamariamman Koil Street,
Omalur, Salem District.

<u>C.SARAVANAN, J.</u>

jas

<u>W.P.No.661 of 2023</u>
<u>and</u>
<u>W.M.P.Nos.606 & 608 of 2023</u>

11.07.2023