IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2869 OF 2023

T S Lines India Pvt. Ltd. … Petitioner

Versus

The State of Maharashtra and Ors. …Respondents

Mr.Jas Sanghavi i/b M/s.PDS Legal for the Petitioner
Smt.Jyoti Chavan, Addl. G.P. for the Respondents Nos.1 to 3
Mr.Advait M. Sethna i/b Mr.Harshad Shingnapurkar for the Respondents No.4

CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.
DATED: 25 January, 2024

P.C.

1. We have heard the learned counsel for the parties. This Petition under Article 226 of the Constitution of India is filed praying for the following reliefs:

> *"(a) that this Hon'ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality thereof to quash and set aside ex parte order dated 13.06.2022 passed under Section 73 of the Act read along with summary order No. DC-E-602/LTU-01/ Scrutiny/ T. S. Lines/DRC-07/FY-2017-18/2022-23/B-204/Mumbai dated 13.06.2022 passed by the Respondent No. 3;*
>
> *(b) pending the hearing and final disposal of the above Petition, this Hon'ble Court by an interim order stay the operation and effect of aside ex-parte order dated 13.06.2022 passed under Section 73 of the Act read along with summary order No. DC-E-602/LTU-01/Scrutiny/T. S. Lines/DRC-07/FY-2017-18/ 2022-23/B-204/Mumbai dated 13.06.2022 passed by the Respondent No. 3.;*
>
> *(c) for ad-interim reliefs in terms of prayer (c) above;*

(d) for costs of this Petition;"

2. The primary contention of the Petitioner is that the impugned order dated 13th June 2022 passed under section 73 of the Central Goods and Service Tax Act ("CGST Act") is an ex-parte Order along with summary order of even date.

3. The Petitioner is registered under different states across India. The Petitioner's contention is that returns filed by the Petitioner were sent for scrutiny assessment by Respondent No.3. In pursuance thereto, notice dated 4th September 2021 in Form GST-ASMT-10 and notice of intimation dated 28th January 2022 in Form DRC-01A respectively were issued by Respondent No.3.

4. Thereafter, on 12th April 2022, show cause notice in Form DRC-01 in accordance with the provisions of Section 73 of the Act was issued. It is contended by the Petitioner that an Order dated 13th June 2022 was passed on the said show cause notice, of which the Petitioner was not at all aware as the same was not available in the "View Order and Notice" section on the portal and even not communicated to the Petitioner by email.

5. The Petitioner has contended that the Petitioner received a call from the Respondents on 18th January 2023 informing the Petitioner of the impugned order / notices whereby the Petitioner was directed to deposit the amounts stated in the impugned order.

6. In the circumstances in which the Order was passed, the Petitioner requested the officers of the Respondents to provide the Petitioner a copy of the impugned order dated 13th June 2022.

7. In pursuance thereto, the officers of the Respondents guided the Petitioner to the "Additional Notices and Order Section" wherein the said orders and notices were uploaded.

8. In the above circumstances, although the Petitioner was aggrieved by the order dated 13th June 2022 being passed without an opportunity being made available to the Petitioner to respond to the show cause notice as also without being given any opportunity for an oral hearing, the Petitioner on 18th January 2023 under protest, deposited an amount of Rs.34,98,095/-. Such amount was deposited without prejudice to the rights and contentions of the Petitioner to assail the impugned order.

9. In the aforesaid circumstances, the Petitioner is before the Court praying for reliefs as noted above.

10. Ms.Chavan, learned Additional G.P., supports the impugned order. However, the fact, that the notices and orders were uploaded on the "Additional Notices and Order Section" in April 2023, is not being disputed.

11. Having heard the learned counsel for the parties and having perused the documents on record, we find substance in the contentions of the Petitioner, and more particularly, considering the screenshot taken from the website showing the procedure for viewing/downloading the notice (Exhibit "B2" at page 61), which reads thus:

> *"Goods and Services Tax*
>
> *Manual>View/Download Notices and Demand Orders*
>
> *How can I view or download the notices and demand orders issued by the GST tax authorities?*
>
> *To view or download the notices and demand orders issued by GST tax authorities, perform the following steps:*
>
> *1. Access the www.gst.gov.in URL. The GST Home page is displayed.*

> *2. Login to the GST Portal with valid credentials.*
>
> *3. Click the **Services > User Services > View Notices and Orders command.**"*

12. We are therefore of the view that no mistake can be attributed to the Petitioner for not having noticed the Notice or the Order on the portal. It is clear that all orders and notices were required to be placed in the "View Notices and Orders" window/ portal. It also appears to be quite clear from the perusal of the record that the Petitioner was not heard. It had no opportunity to reply to the show cause notice.

13. In the aforesaid circumstances, it is in the interests of justice that the impugned orders are quashed and set aside. The proceedings are remanded to the Respondents for a fresh order to be passed after giving an opportunity to the Petitioner to reply to the show cause notice and after an opportunity of a hearing is granted to the Petitioner.

14. At this stage, the learned counsel for the Petitioner informs that the Petitioner would file its reply to the show cause notice within a period of four weeks from today.

15. With such directions, we dispose of the present proceedings remanding the proceedings to the designated officer. All contentions are kept open.

16. Ordered accordingly.

17. No costs.

(FIRDOSH P. POONIWALLA, J.) **(G. S. KULKARNI , J.)**