IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.4973 of 2024
and
W.M.P.Nos.5458 & 5462 of 2024

Tvl.Sri Sampoorani Amma Mills Pvt. Ltd.,
Rep.by its Managing Director,
88/3, Pandiyandipalayam,
Veeranampalayam Village,
Kangayam – 638 701. ... Petitioner

Versus

Assistant Commissioner (ST),
Kangeyam Assessment Circle,
Kangeyam. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records relating to the order in GSTIN:33ACSFS1447H1ZW/2017-18 dated 31.08.2023 read with Form GST DRC-07 dated 31.08.2023 passed by the respondent and quash the same.

For Petitioner : Mr. T. Ramesh

For Respondent : Ms. Amirta Poonkodi Dinakaran,
Government Advocate (Tax)

ORDER

The assessment order dated 31.08.2023 is challenged primarily on the ground that principles of natural justice were breached.

2. The petitioner submits that he received a show-cause notice dated 04.05.2023 with regard to a proposal to reverse Input Tax Credit (ITC). He requested for further time to reply thereto, but the impugned order was issued without providing such opportunity.

3. Ms. Amirta Poonkodi Dinakaran, learned Government Advocate, accepts notice on behalf of the respondent. She submits that the petitioner was provided multiple opportunities and that proceedings were initiated by issuing notice in Form ASMT-10. Therefore, she submits that the impugned order does not call for interference.

4. On examining the impugned order, it is clear that proceedings were initiated by issuing a notice in Form ASMT-10 on 22.06.2022 in respect of alleged discrepancies in returns filed by the petitioner. This was followed by an intimation and show-cause notice. A personal hearing was

also offered to the petitioner. Therefore, it appears that the petitioner did not avail of the opportunity provided to him. At the same time, it should also be noticed that the petitioner had requested for an adjournment upon receipt of the personal hearing notice, but such request was denied and the impugned order was issued without hearing the petitioner. In these circumstances, the interest of the petitioner and revenue interest are required to be balanced.

5. On instructions, learned counsel for the petitioner submits that the petitioner is ready and willing to remit 10% of the disputed tax demand as a condition for remand.

6. In these circumstances, the impugned order is quashed subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to. The petitioner is also permitted to submit a reply to the show-cause notice within a maximum period of two weeks from the date of receipt of a copy of this order. Upon receipt of the reply and upon being satisfied that 10% of the disputed tax demand was received, the assessing officer is directed to provide a reasonable opportunity to the petitioner,

including a personal hearing, and thereafter issue a fresh assessment order within a period of two months from the receipt of a copy of the petitioner's reply.

7. The Writ Petition is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

04.03.2024

Index : Yes
Speaking Order : Yes
Neutral Case Citation: Yes

klt

To

Assistant Commissioner (ST),
Kangeyam Assessment Circle,
Kangeyam.

SENTHILKUMAR RAMAMOORTHY,J

klt

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