IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.5908 of 2024 and
W.M.P.Nos.6545 & 6546 of 2024

Signet Industries Limited,
SF No.121/1B12, Old Govt.
363, Pillaiyar nagar,
T.S.No.9/60, Salem-636 005,
Tamil Nadu, GSTIN-33AABCS3489F1ZD. ...Petitioner

Vs.

1.State Tax Officer,
Commercial Taxes Department,
Room No.418, Fourth floor,
Integrated Commercial Taxes Building,
Pitchards Road, Salem-636 007.

2.Audit Officer/Assistant Commissioner (ST),
Alagapuram Circle,
Commercial Taxes Department,
Integrated Commercial Taxes Building,
Pitchards Road, Salem-636 007.

3.Commercial Tax Officer,
Arisipalayam Circle,
Commercial Taxes Department,
Integrated Commercial Taxes Building,
Pitchards Road, Salem-636 007. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondent in Impugned order in GSTIN:33AABCS3489F1ZD/2017-2018 dated 22.12.2023 and the consequential DRC 07 passed in Reference No.ZD3312231699192 dated 22.12.2023 passed by the 3rd respondent and quash the same.

For Petitioner : Mr.G.Vardini Karthik

For Respondents : Mr.T.N.C.Kaushik,
Additional Government Pleader (T)

ORDER

An assessment order dated 22.12.2023 is assailed primarily on the ground of non application of mind.

2. The petitioner is a manufacturer of drip irrigation sprinkler systems and has its head office at Pitampur, near Indore. Consequently, the petitioner has places of business outside Tamil Nadu. Pursuant to audit proceedings, the petitioner received a show cause notice dated 27.09.2023. In response thereto, the petitioner submitted a certificate

from the Chartered Accountant, M/s.Gupta & Jain, certifying the turnover attributable to operations in Tamil Nadu. The petitioner also submitted a reply dated 13.10.2023 dealing with each defect that forms the subject of the show cause notice. The impugned assessment order was issued thereafter on 22.12.2023.

3. By inviting my attention to the impugned assessment order, learned counsel for the petitioner points out that the assessing officer extracted rules from the Central Goods and Services Tax Rules although such rules are not germane to the tax demand. As regards the operative portion of the order, learned counsel submits that it is recorded therein that the tax payer did not file any objection/reply or avail of the opportunity of personal hearing. Since the impugned assessment order is completely unreasoned, learned counsel contends that such order is not sustainable.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondents. He submits that a show cause notice was issued and the petitioner's reply was also taken into account.

5. The operative portion of the impugned order is as follows:

> *"In failure to furnish the relevant documents for Tamil Nadu branch, you were once again requested to furnish all the connected records of Tamil Nadu branch and afforded appropriate opportunity and also personal hearing prospected, having received the notices and noticed the personal hearing opportunity afforded, the tax payer has neither filed objection/reply or not availed opportunity of personal hearing, and not even demanded for further extension of time, therefore, it is construed that the tax payer has no objection to the proposal found in the DRC-01, hence, the tax payer is assessed for the year 2017-2018 under Section 73(9) of the TN GST Act as follows"*

In the face of the chartered accountant's certificate dated 12.10.2023 and the petitioner's reply dated 13.10.2023, the above findings are completely unsustainable and clearly indicate non application of mind. Even otherwise, the impugned order appears to be completely unreasoned. Hence, interference is warranted with the order.

6. For reasons set out above, the impugned assessment order dated 22.12.2023 is quashed and the matter is remanded for reconsideration. It is open to the petitioner to raise all contentions before the assessing officer. The assessing officer shall provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh reasoned assessment order within a maximum period of two months from the date of receipt of a copy of this order.

7. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

06.03.2024

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

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SENTHILKUMAR RAMAMOORTHY,J.

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