IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 07.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.5816 of 2024
and W.M.P.Nos.6454 & 6455 of 2024

Tvl.Jayaveera Dye Chem,
Rep. by its Proprietor,
D.No.18, Kangeyam Road
Amar Jhothi A S Nagar,
7th Street, Tiruppur 641 606. ... Petitioner

-vs-

The State Tax Officer
Rural-1 Circle,
Tirupur. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records relating to the order in GSTIN: 33AGHPK0279L1Z9/2020-21 dated 25.05.2023 read with Form GST DRC 07 dated 25.05.2023 passed by the respondent and quash the same.

For Petitioner : Mr.T.Ramesh

For Respondent : Mr.C.Harsha Raj, AGP (T)

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ORDER

By this writ petition, the petitioner assails an assessment order dated 25.05.2023 relating to assessment year 2017-18. The petitioner is engaged in the business of trading in dyes and chemicals. Pursuant to the surprise conducted at the premises of the petitioner on 27.10.2022, certain defects were pointed out with regard to the difference between the Input Tax Credit (ITC) availed of by the petitioner in the returns filed in Form GSTR-3B as compared to the auto populated GSTR-2A return for the corresponding period. In those circumstances, an intimation dated 09.12.2022 was issued. The petitioner responded thereto on 13.12.2022 and requested that the proceedings be dropped in light of the explanation. This was followed by a show cause notice dated 07.02.2023. The said show cause notice was also replied to by the petitioner. Eventually, the impugned assessment order was issued.

2. Learned counsel for the petitioner invited my attention to the impugned assessment order and pointed out the sole reason for reversal of ITC was the alleged discrepancy between the GSTR-3B and 2A returns. He also pointed out that the petitioner had replied to the intimation, but the reply was disregarded. He also points out that the petitioner had requested for an adjournment of the personal hearing, but that the assessing officer proceeded to issue the assessment order. Pursuant to the assessment order, learned counsel also points out that the bank account of the petitioner in the Kotak Mahindra Bank was attached and that monies were appropriated therefrom.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He submits that the petitioner was offered personal hearings on more than one occasion and that the petitioner failed to avail of the opportunity and contest the tax demand effectively. Therefore, he contends that no interference is warranted.

4. On examining the impugned assessment order, it is evident that the assessing officer did not take into account the reply submitted by the petitioner to the intimation dted 09.12.2022 on 22.12.2022. In addition, no personal hearing was granted to the petitioner.

5. Hence the assessment order dated 25.05.2023 is quashed and the matter is remanded for re-consideration for the assessing officer.

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 maximum period of ***two months*** from the date of receipt of a copy of this order. In view of the assessment order being quashed, the order of attachment of the petitioner's bank account stands raised. The amounts appropriated prior to the issuance of this order shall abide by the outcome of the remanded proceedings.

6. W.P.No.5816 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.6454 and 6455 of 2024 are closed.

07.03.2024
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Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

SENTHILKUMAR RAMAMOORTHY,J

rna

To

The State Tax Officer
Rural-1 Circle,
Tirupur.

W.P.No.5816 of 2024
and W.M.P.Nos.6454 & 6455 of 2024

07.03.2024
(2/2)