IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.6014 of 2024
and
W.M.P.Nos.6657 & 6658 of 2024

Tvl. J.J. & Co,
Rep.by its Managing Partner, Mr. Vinod Nahar,
No.80, 2nd Floor, MPMA Building,
Godown Street, Parrys,
Chennai – 600 001. … Petitioner

Versus

The Assistant Commissioner (ST),
Kothawalchavadi Assessment Circle,
Integrated Commercial Taxes Building,
Chennai – 600 003. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the file of the Respondent and to quash the impugned order dated 10.08.2023 bearing GSTIN NO.33AAAFJ0403G1Z7/2017-18 passed by the respondent for the financial year 2017-2018 as arbitrary.

For Petitioner : Mr. J. Ashish
For Respondent : Mr. C. Harsha Raj,
Additional Government Pleader (Tax)

ORDER

An assessment order dated 10.08.2023 is challenged on the ground that principles of natural justice were breached.

2. The petitioner is a registered person under applicable GST enactments. He asserts that he was unaware of proceedings being initiated since the relevant show cause notice and the impugned order were uploaded in the 'View Additional Notices' tab on the GST portal. Upon the bank account of the petitioner being attached, it is stated that the petitioner being aware of it on 13.02.2024.

3. Learned counsel for the petitioner submits that the petitioner reconciled the disparity between the GSTR 3B and GSTR 2A returns while filing the annual return in Form GSTR-9 and he also submits that the petitioner was not provided a reasonable opportunity because the show cause notice and order were not communicated to him by any other mode other than uploading on the GST portal.

4. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

5. Mr. C. Harsha Raj, learned Additional Government Pleader, appears on behalf of the respondent. He submits that the petitioner was provided sufficient opportunity and failed to avail of the same.

6. The petitioner has placed on record the annual return in Form GSTR-9. It is asserted that the disparity was reconciled in such annual return. Undoubtedly, the petitioner did not participate in proceedings and, hence, could not contest the tax demand. Therefore, on being put on terms, the petitioner should be provided an opportunity to contest the tax demand.

7. Therefore, the impugned order dated 10.08.2023 is quashed subject to the condition that petitioner remits 10% of the disputed tax demand, as agreed to, within a period of two weeks from the date of receipt of a copy of this order. The petitioner is also permitted to file a

reply to the show cause notice within the aforesaid period. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, the respondent 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.

8. As a consequence of the impugned assessment order dated 10.08.2023 being quashed, the bank attachment order shall stand raised.

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

22.03.2024

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

klt

To

The Assistant Commissioner (ST),
Kothawalchavadi Assessment Circle,
Integrated Commercial Taxes Building,
Chennai – 600 003.

SENTHILKUMAR RAMAMOORTHY, J.,

klt

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