IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.6009 of 2024
and
W.M.P.Nos.6651 & 6653 of 2024

Tvl. J.J. Distributors,
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 12.09.2023 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 12.09.2023 is assailed *inter alia* on the ground that principles of natural justice were breached.

2. The petitioner is engaged in the business of purchasing and selling textile fabrics. The petitioner asserts that he was unaware of the show cause notice and the impugned order because the same were uploaded in the 'View Additional Notices' tab on the GST portal. Upon coming to know of the impugned order and that the bank account of the petitioner was attached, the present writ petition was filed.

3. Learned counsel for the petitioner submits that the demand in the impugned order pertains to disparity between the petitioner's GSTR 3B returns and GSTR-1 statement of his supplier. He also points out that the disparity was rectified while filing annual return in GSTR-9 by paying a total sum of Rs.96,132/- which marginally exceeds the tax liability under the impugned order.

4. Mr. C. Harsha Raj, learned Additional Government Pleader, appears on behalf of the respondent. He submits that the impugned order was issued after the petitioner failed to reply to the show cause notice or participate in proceedings in spite of being provided an opportunity to do so.

5. On examining the impugned order, it is evident that the tax liability indicated therein is a sum of Rs.95,666/-. The petitioner has placed on record proof of payment of Rs.96,132/- by submitting Form GST DRC-03. The impugned order also indicates that the petitioner was not heard before such order was issued. Given the fact that revenue interest is fully secured as on date, it is just and appropriate that the petitioner be provided an opportunity of being heard.

6. For reasons set out above, the impugned order dated 12.09.2023 is quashed and the matter is remanded for reconsideration. The petitioner is permitted to file a reply to the show cause notice within a period of two weeks from the date of receipt of a copy of this order. Upon receipt thereof, 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 date of receipt of the petitioner's reply.

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

8. 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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