IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.6609 of 2024 and
W.M.P.Nos.7335 & 7336 of 2024

Emerald Business Support Services,
Represented by its Authorized Signatory,
B.Suresh Kumar,
No.199, Gove Building, Annasalai,
Chennai-600 002. ...Petitioner

Vs.

Assistant Commissioner (ST),
Annasalai Assessment Circle,
No.1, Greams Road,
Chennai-600 006. ...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the impugned order of the respondent passed in GSTIN:33AAAFV2222P1Z7/2019-2020 dated 12.01.2023 and quash the same and further direct the respondent to re-do the adjudication in accordance with the law after providing personal hearing to the petitioner.

For Petitioner : Mr.N.Murali

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

ORDER

An assessment order dated 12.01.2023 is the subject of challenge.

2. The petitioner is a registered person under applicable GST enactments. The petitioner is engaged in the business of dealing in motor vehicles' spare parts. Pursuant to a scrutiny of the petitioner's returns, notice in Form GST ASMT-10 was uploaded on the GST portal on 11.03.2022. Thereafter, intimation was issued in July 2022 and a show cause notice in September 2022. Since all of the above were uploaded in the 'View Additional Notices and Orders' tab on the GST portal, the petitioner asserts that he was unaware of the same until his Chartered Accountant informed him in January 2023. In those circumstances, the petitioner filed a petition on 13.01.2023 seeking rectification. The said petition is said to be pending until date.

3. 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.

4. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate, accepts notice for the respondent. She points out that the petitioner was provided sufficient opportunity to contest the tax demand, and that the same is evident from the documents on record.

5. On examining the impugned assessment order, it is evident that the confirmed tax demand has arisen entirely on the basis of discrepancies between the GSTR 3B return of the petitioner and the auto-populated GSTR 2A return. It is also evident that the petitioner was not heard before the tax demand was confirmed. The assessment order was preceded by a show cause notice and intimation. Therefore, the explanation of the petitioner that he was unable to respond to the above on account of being unaware of the same is not entirely convincing. At the same time, in order to provide an opportunity to the petitioner to contest the tax demand on merits, I am inclined to interfere with the impugned order by putting the petitioner on terms.

6. For reasons set out above, the impugned assessment order is quashed subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to within a maximum period of two weeks

from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply to the show cause notice dated 03.09.2022 within the aforesaid period of two weeks. Upon receipt thereof 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 date of receipt of the petitioner's reply.

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.

13.03.2024

(1/2)

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

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To

Assistant Commissioner (ST),
Annasalai Assessment Circle,
No.1, Greams Road,
Chennai-600 006.

SENTHILKUMAR RAMAMOORTHY,J.

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