IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **15.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.6518 of 2024
and W.M.P.Nos.7248 & 7250 of 2024

Tvl. B.P.International
Represented by its Partner:
Ashok Kumar Parasmall
82, SIDCO, Women Industrial Park,
Karupur, Salem 636 011. ... Petitioner

-vs-

1.The State Tax Officer (ST),
Omalur Assessment Circle,
2/1, 15th Ward, Periyamariamman Kovil Back side,
Visvam building, Bazar Street,
Omlur 636 455.

2.The Commercial Tax Officer
Omalur Salem II
2/1, 15th Ward, Periyamariamman Kovil Back side,
Visvam building, Bazar Street,
Omlur 636 455. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent bearing the impugned order in GSTIN / 33AAJFB0694A1ZX/2017-18 dated 29.12.2023 and the impugned summary order passed by the second respondent issued in Form DRC-7 dated 30.12.2023 bearing reference number ZD331223281044U, directing the petitioner to pay a sum of Rs.3,42,80,806/- tax along with interest and penalty to quash the same and direct the respondents not to enforce the impugned order issued by the respondents.

For Petitioner : Ms.S.Gayathri
for Mr.M.V.Swaroop

For Respondents : Mr.T.N.C.Kaushik, AGP (T)

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ORDER

An assessment order dated 29.12.2023 for the assessment period 2017-18 is the subject of challenge.

2. The petitioner is a registered person under applicable GST enactments. An audit was conducted in August 2023 by the Assistant Commissioner (ST), Mettur Circle. Upon receipt of audit observations, the petitioner replied thereto in September 2023. Eventually, an audit report was issued in December 2023. Subsequent thereto, a show cause notice was issued by the second respondent on 23.12.2023 calling upon the petitioner to reply on or before 27.12.2023. The petitioner replied on 26.12.2023 and stated that the relevant records were produced before the audit officer at the time of audit. It was further stated therein that the relevant documents are being submitted at the Commercial Tax Department, Mettur Assessment Circle. In those circumstances, the impugned assessment order was issued on 29.12.2023.

3. Learned counsel for the petitioner submits that insufficient time was provided to respond to the show cause notice and that the petitioner submitted the reply on 26.12.2023 by pointing out that all relevant records were submitted to the audit officer. By referring to the impugned assessment order, she points out that the assessing officer concluded that the petitioner had not produced any documents or records. Hence, she contends that the petitioner should be provided a reasonable opportunity.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondents. He submits that the petitioner was required to produce the documents before the assessing officer and that it is insufficient that such documents were placed before the audit officer.

5. On examining the show cause notice, it is evident that insufficient time was provided in as much as such notice is dated

23.12.2023 and the petitioner was only given about four days to respond thereto. It is also evident from the petitioner's reply that the assessing officer was informed that the documents were previously submitted before the audit officer and that such documents were again being submitted to the Commercial Taxes Department. In those circumstances, the findings recorded in the impugned assessment order that no documents were produced cannot be sustained. Since the petitioner was not provided a reasonable opportunity to contest the tax demand, the impugned assessment order warrants interference.

6. Therefore, the impugned assessment order dated 29.12.2023 is quashed and the matter is remanded for re-consideration. 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 ***two months***. The petitioner is permitted to submit all relevant documents before the assessing officer.

7. W.P.No.6518 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.7248 and 7250 of 2024 are closed.

15.03.2024

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

To

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