IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.7449 of 2024
and
W.M.P.Nos.8331 & 8332 of 2024

New Dolphin Machining Solutions,
Rep.by its Managing Partner Mr. V. S. Sridhar,
No.8 A, NA, Brindavan Colony, Vanagaram Road,
Athipet, Ambattur,
Chennai - 600058. ... Petitioner

Versus

The Assistant Commissioner (ST)(FAC),
Ambattur Industrial Estate Assessment Circle,
Integrated Commercial Taxes and Registration Dept. Building,
Room No.324, 3rd Floor,
Nandanam, Chennai – 600 035. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari, to call for the records of the Respondent in Reference Number ZD330523009079M DRC-07 dt 03.05.2023 and quash the same as arbitrary, illegal.

For Petitioner : Ms. V. Vijayalakshmi

For Respondent : Mrs.K.Vasanthamala,
Government Advocate (Tax)

ORDER

An order dated 03.05.2023 is challenged on the ground of breach of principles of natural justice.

2. The petitioner asserts that he was unaware of proceedings culminating in the impugned assessment order on account of the fact that GST compliances had been entrusted to a consultant, who had not informed the petitioner of such proceedings.

3. By pointing out that the tax demand pertains to discrepancy between the petitioner's GSTR-3B and auto-populated GSTR-2A, it is submitted that the petitioner would be in a position to establish that the availment of Input Tax Credit (ITC) was proper if an opportunity is provided.

4. The petitioner has also placed on record additional documents to establish that the purchases made by the petitioner were genuine.

5. On instructions, learned counsel for the petitioner submits that 10% of the disputed tax demand was remitted on 05.03.2024.

6. Mrs. K. Vasanthamala, learned Government Advocate, accepts notice for the respondent. She submits that the impugned order was preceded by show cause notice dated 03.03.2023 and that the petitioner was provided a reasonable opportunity to contest the tax demand.

7. On perusal of the impugned order, it is evident that such order relates to the discrepancy between the GSTR 3B and GSTR – 2A returns. The petitioner has placed on record several documents to establish that the petitioner was entitled to avail of ITC. Since the petitioner was not heard before the impugned order was issued, principles of natural justice warrant interference so as to provide an opportunity to the petitioner. It should be noticed that the petitioner remitted 10% of the disputed tax demand, before filing this writ petition.

8.Therefore, the impugned order dated 03.03.2023 is set aside and the matter is remanded for reconsideration. The petitioner is also permitted to file a reply to the show cause notice within 15 days 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 order within two months from the date of receipt of the petitioner's reply.

9. W.P.No.7449 of 2024 is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

15.04.2024

Index : No
Speaking Order : Yes
Neutral Case Citation: No

klt

To

The Assistant Commissioner (ST)(FAC),
Ambattur Industrial Estate Assessment Circle,
Integrated Commercial Taxes and Registration Dept. Building,
Room No.324, 3rd Floor, Nandanam, Chennai – 600 035.

SENTHILKUMAR RAMAMOORTHY,J

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