IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8215 of 2024
and
W.M.P.Nos.9164 & 9167 of 2024

Unique Marine,
Rep.by its Partner P.K.Narayanamoorthy,
No.19/10, Uni Chambers Second floor,
Tank Street,
Chennai – 600 013. … Petitioner

Versus

Assistant Commissioner,
Muthialpet Assessment Circle,
Integrated Commercial Taxes Office Complex,
Chennai – 600 003. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the respondent herein in impugned order in GSTIN : 33AAEFU8088Q1ZA/2017-2018, dated 15.09.2023 and the consequential DRC 07 passed in

Ref.No.ZD330923103983C dated 16.09.2023 passed by the respondent and to quash the same.

For Petitioner : Ms. G. Vardini Karthik

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

ORDER

In this writ petition, the order in original dated 15.09.2023 and the consequential garnishee order dated 06.02.2024 are challenged.

2. The petitioner is a registered person under applicable GST enactments. Upon scrutiny of the petitioner's returns, notice in Form GST ASMT 10 was issued on 25.04.2023. This was followed by a show cause notice dated 11.07.2023. Since the show cause notice was uploaded on the GST portal, the petitioner asserts that such notice was not brought to the petitioner's notice by GST practitioner, who was entrusted with the GST compliances. The present writ petition was filed in the said facts and circumstances.

3. Learned counsel for the petitioner submits that the matter relates to a mismatch between the GSTR 1 statement of the supplier and the GSTR 3B returns of the petitioner. By referring to Form GST DRC-01B, which was introduced with effect from 26.12.2022, learned counsel submits that after the introduction of this form, it has become possible for a registered person to reconcile these differences, whereas it was not possible earlier. She also submits that a sum of about Rs.7 lakhs was appropriated from the bank account of the petitioner towards discharge of the entire tax demand.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice on behalf of the respondent. He submits that the petitioner was provided sufficient opportunities and that proceedings were commenced with the issuance of notice in Form ASMT 10.

5. The impugned order discloses that the petitioner was not heard before such order was issued. The admitted position is that the entire tax demand was realized by way of appropriation from the petitioner's bank

account. Hence, at this juncture, revenue interest is fully secured. In these circumstances, it is just and necessary to provide the petitioner an opportunity to contest the tax demand. Solely for this reason, the order impugned herein call for interference.

6. Therefore, the impugned order dated 15.09.2023 is quashed and the matter is remanded for reconsideration. The petitioner is permitted to file a reply to the show cause notice dated 11.07.2023 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 order within a period of two months from the date of receipt of the petitioner's reply.

7. The garnishee order has worked itself out and, in any event, in view of the assessment order being quashed, the said bank attachment stands raised. All contentions are left open to the petitioner in the course of remanded proceedings.

8. The Writ Petition is disposed of on the above terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

26.03.2024

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

klt

To

The Assistant Commissioner,
Muthialpet Assessment Circle,
Integrated Commercial Taxes Office Complex,
Chennai – 600 003.

SENTHILKUMAR RAMAMOORTHY, J.,

klt

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