IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8217 of 2024
and
W.M.P.Nos.9173, 9176 & 9177 of 2024

UM Industrial Coating & Services,
Rep.by its Partner P.K.Narayanamoorthy,
19/10 Thandava Murthy Street,
Royapuram,
Chennai – 600 013. ... Petitioner

Versus

1.Deputy State Tax Officer,
Royapuram Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai – 600 003.

2.Deputy Commercial Tax Officer,
Royapuram North II,
Chennai – 600 003.

3.Bank of Baroda,
Alagappa Road Branch,
80, Ritherdon Road,
Purasawakkam – 600 007. ... 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 1st respondent herein in impugned order in GSTIN : 33AAEFU1035F1ZO/2017-2018, dated 14.09.2023 and quash the same and further direct the 1st respondent to lift the bank attachment on the petitioner's account held with the 3rd respondent bank.

For Petitioner : Ms. G. Vardini Karthik
For R1 & R2 : Mrs.K.Vasanthamala, Govt. Adv. (T)

ORDER

In this writ petition, the order in original dated 14.09.2023 and the consequential recovery notice dated 20.12.2023 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 02.05.2023. This was followed by the show cause notice dated 22.06.2023. 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 the GST practitioner, who was entrusted with 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 and 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.

4. Mr Harsha Raj, learned Additional Government Pleader, accepts notice on behalf of the first and second respondents. 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. In these circumstances, it is just and necessary to provide an opportunity to the petitioner to contest the tax demand on terms. Solely for the reason, the order impugned herein calls for interference.

6. 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 after providing credit to a sum of Rs.10,000/- which was appropriated from the petitioner's bank account.

7. Therefore, the impugned order dated 14.09.2023 is quashed subject to the condition that the petitioner remits 10% of the disputed tax demand within a period of two weeks from the date of receipt of a copy of this order. The petitioner is also permitted to file a reply to the show cause notice dated 22.06.2023. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, 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 receipt of a copy of the petitioner's reply.

8. In view of the assessment order being quashed, the recovery notice is also quashed and the bank attachment is raised. All contentions are left open to the petitioner in the course of remanded proceedings.

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

26.03.2024

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

klt

To

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SENTHILKUMAR RAMAMOORTHY, J.,

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