IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8169 of 2024 and
W.M.P.Nos.9115 & 9116 of 2024

M/s.Buildcraft Interior Private Limited,
Represented by its Director,
No.2, Harrington Road,
'K.R.M.Centre', 8th floor,
Chetpet, Chennai-600 031. ...Petitioner

Vs.

The Assistant Commissioner (ST),
Valluvarkottam Assessment Circle,
No.10, Palaniappa Maaligai,
Greams Road, Chennai-600 006. ... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondent in Order Reference No.MA331223098770X, dated 30.12.2023 in GSTIN 33AACCB2106P1ZW/2017-2018 and quash the same as illegal, arbitrary and in violation of principles of natural justice.

For Petitioner : Ms.C.Rekhakumari

For Respondent : Mr.T.N.C.Kaushik,
Addl. Govt. Pleader (T)

ORDER

An order dated 30.12.2023 is assailed on the ground that the petitioner's reply to the audit report was not taken into consideration.

2. The petitioner is engaged in trading and contracting relating to civil and interior materials. An audit was conducted in relation to the assessment of the petitioner for the assessment period 2017-2018. In response to a request from the audit officer, the petitioner submitted several documents along with a communication dated 12.05.2023. Thereafter, a detailed reply was also submitted by annexing relevant documents on 15.09.2023. Upon receipt of such reply, the audit report was issued on 30.09.2023. This was followed by a show cause notice dated 30.09.2023 and the impugned order dated 30.12.2023.

3. Learned counsel for the petitioner submits that several documents were submitted as enclosures to letters dated 12.05.2023 and 15.09.2023. According to learned counsel, these documents were not

taken into consideration while preparing an audit report on 30.09.2023. By referring to the show cause notice dated 30.09.2023, learned counsel submits that such show cause notice is a reproduction of the audit report and that conclusions were recorded therein instead of calling upon the petitioner to show cause. By referring to the impugned order, learned counsel submits that the documents submitted by the petitioner in response to the audit observations were not considered therein. Indeed, she contends that the impugned order is unreasoned and that tax liability was imposed under about seven heads of demand.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that the impugned order was issued because the petitioner did not reply either to the show cause notice or to the personal hearing notice. He also points out that an opportunity of personal hearing was granted both under the show cause notice and separately on 21.12.2023.

5. On examining the response of the petitioner to the notice from the audit officer, it is clear that the petitioner had submitted several documents such as the annual financial statement, sales and purchase

register, ITC claim register, details of credit and debit notes, etc. A detailed reply was also issued thereafter to the audit observations on 15.09.2023. On perusal of the show cause notice dated 30.09.2023, it is noticeable that such show cause notice is not in the nature of a show cause notice and, as contended by learned counsel for the petitioner, it appears to be the reproduction of the audit report. In the personal hearing notice dated 21.12.2023, the tax payer's reply is referred to. However, in the impugned order, the respondent has failed to discuss the reply or the documents annexed to the reply to the audit observation. As a consequence, the tax liability has been confirmed under seven heads of demand. Since the petitioner's reply and documents annexed thereto were not taken into consideration, the impugned order calls for interference.

6. For reasons set out above, the impugned order is quashed and the matter is remanded for reconsideration. The petitioner is permitted to file a reply to the personal hearing notice dated 21.12.2023 by treating the same as a show cause notice. Such reply shall be filed within a period of 15 days from the date of receipt of a copy of this order. Upon receipt thereof, the assessing officer 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 writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

26.03.2024

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

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To

The Assistant Commissioner (ST),
Valluvarkottam Assessment Circle,
No.10, Palaniappa Maaligai,
Greams Road, Chennai-600 006.

SENTHILKUMAR RAMAMOORTHY,J.

Kj

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