IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8200 of 2024
and
W.M.P.Nos.9148 & 9149 of 2024

Universal Relocations India Private Ltd.,
Rep.by its Director & Chief Executive Officer,
Mrs. Sangeetha C Dave A/a 47 yrs,
Lane No.1A, Voora Villa 96,
Bhakthi Vedanta Salai,
Akkarai, Chennai – 600 115. … Petitioner

Versus

1.State of Tamil Nadu,
Rep.by its Principal Secretary to Government,
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk, Chennai – 600 005.

2.The Assistant Commissioner (ST),
Nandanam Assessment Circle,
Station : No.46,III Floor, Greenways Road,
Chennai – 600 028. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call upon the records pertaining to the GSTIN : 33AABCU0899H1Z7, dated 29.12.2023 on the file of the 2nd respondent and to quash the same.

For Petitioner : Mr.J. V. Niranjan
For Respondent : Mrs. K. Vasanthamala,
Government Advocate (Tax)

ORDER

An order dated 29.12.2023 is challenged both on the grounds of breach of principles of natural justice and on the ground that GST was imposed on amounts payable by the petitioner.

2. The petitioner is engaged in the provision of relocation services. As a registered person under applicable GST enactments, the petitioner had filed returns. Purportedly pursuant to show cause notice dated 30.09.2023, the impugned order dated 29.12.2023 was issued. The present writ petition was filed in the said facts and circumstances.

3. Learned counsel for the petitioner submits that the petitioner did not receive the show cause notice dated 30.09.2023, which is referenced in the impugned order. By inviting my attention to such order, learned counsel points out that GST was imposed on the trade payables of the petitioner by relying on the balance sheet of the petitioner as on 31.03.2018. Similarly, he submits that GST was imposed on employee benefit expenses incurred by the petitioner. He also submits that no personal hearing was offered to the petitioner and relies, in this regard, on Reminder 3 dated 21.12.2023 which indicates “not applicable” in relation

to the date of personal hearing.

4. Mrs. K. Vasanthamala, learned Government Advocate (Tax), accepts notice for the respondents. She submits that the petitioner should have placed all relevant documents on record to establish that the sales are exempted sales under applicable GST statutes. Since the petitioner did not respond to the show cause notice, she submits that the impugned order was issued on the basis of materials available with the respondents.

5. The impugned order deals with the three issues. The first issue is trade payables. It is unclear from the impugned order as to the basis for imposing GST on total trade payables. It further appears that the amount specified as turnover was taken directly from the balance sheet of the petitioner. Similarly, GST was imposed on employee benefit expenses by taking the amounts from the profit and loss account of the petitioner for the year 2017-18. Once again, it is unclear as to how liability was imposed with regard to employee benefit expenses incurred by the petitioner. In these circumstances, the impugned order cannot be sustained.

6. Therefore, the impugned order dated 29.12.2023 is quashed and

the matter is remanded for reconsideration. The petitioner is permitted to submit a reply to the show cause notice dated 30.09.2023 within three weeks from the date of receipt of a copy of this order. Upon receipt thereof, the second 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 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 : Yes/No
Speaking Order : Yes /No
Neutral Citation Case : Yes/No

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To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Commissioner of Commercial Taxes,
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Chennai – 600 005.

2. The Assistant Commissioner (ST),
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SENTHILKUMAR RAMAMOORTHY, J.,

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