IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10313 of 2023
and
W.M.P. Nos.10289 & 10291 of 2023

Mr. Eswaramoorthy Viswanthan ... Petitioner

Versus

Deputy Commercial Tax Officer,
Having its office at Gobichettipalayam, Erode,
SH-15, Gobichettipalayam Erode Road,
Erode – 638 452. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari, to call for records pertaining to the impugned order dated 17.12.2022 issued in Reference No.ZD331222065386 by the respondent and quash the same.

For Petitioner : Mr. Hari Radhakrishnan

For Respondent : Mr. V. Prashanth Kiran,
Government Advocate (Tax)

ORDER

An assessment order dated 17.12.2022 is the subject of challenge in this writ petition. Upon scrutiny of the petitioner's returns, a notice in Form ASMT-10 was issued. The petitioner's replied to such notice on 29.04.2022 by uploading such reply in Form ASMT-11. Thereafter, pursuant to the show cause notice dated 18.11.2022, the impugned order was issued.

2. Learned counsel for the petitioner contends that the impugned order is vitiated for multiple reasons. He points out that the show cause notice does not contain details of the tax proposal. He further submits that neither the show cause notice nor the impugned order bear the signature, digital or otherwise, of the assessing officer. He also submits that the petitioner's reply to the notice in Form ASMT-10 was not taken into consideration while issuing the impugned order.

3. Mr. V. Prashanth Kiran, learned Government Advocate, appears on behalf of the respondent. By referring to and relying on the counter affidavit, he submits that all the details of the tax proposal were set out in

the ASMT-10 notice. He further submits that the taxpayer's reply dated 20.09.2022 was not taken into consideration because no evidence was submitted in support of such reply. As regards the failure to affix the digital signature, he submits that such digital signature was affixed and that the show cause notice and the order could not have been uploaded without affixing the digital signature.

4. On perusal of the summary of show cause notice, such summary mentions that a notice in DRC-01A would be issued if the petitioner fails to pay the tax along with interest thereon on or before 14.06.2022. No details of the tax proposal are set out therein so as to enable the petitioner to respond meaningfully to the show cause notice. The impugned order also appears to be completely bereft of reasons and does not take into account the petitioner's reply to the notice in Form ASMT-10. For all these reasons, the impugned order cannot be sustained.

5. Therefore, the impugned order dated 17.12.2022 is set aside. However, it is open to the respondents to initiate fresh proceedings by issuing a show cause notice in accordance with law.

6. 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.

02.07.2024

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

klt

To

Deputy Commercial Tax Officer,
Having its office at Gobichettipalayam, Erode,
SH-15, Gobichettipalayam Erode Road,
Erode – 638 452.

SENTHILKUMAR RAMAMOORTHY,J.

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