IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8378 of 2024
and
W.M.P.Nos.9335 & 9336 of 2024

M/s. Thirumurugan Traders (Defunct),
Rep.by its Proprietor N.Yuvaraj,
No.45/98, Subramaniyar Kovil Street,
Arokanam Taluk,
Vellore – 631 052. … Petitioner

Versus

The Deputy State Tax Officer – I,
Arokanam (C) Assessment Circle,
Arokanam,
Vellore District. ... 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 in Form DRC-07 in GSTIN No.33ADUPN7982M1ZH-Tax period July 2017 to March 2018 dated 20.10.2023 and quash the same.

For Petitioner : Mrs. R. Hemalatha,
for Mr. S. Rajasekar.

For Respondent : Mrs. K. Vasanthamala,
Government Advocate (Tax)

ORDER

An order dated 20.10.2023 is assailed on the ground that principles of natural justice were breached.

2. The petitioner was a registered person under applicable GST enactments until 27.02.2019 when the registration was cancelled at the instance of the petitioner. The petitioner asserts that he was unaware of proceedings culminating in the impugned order, since he is no longer a registered person. The present writ petition was filed upon receipt of a demand notice dated 11.01.2024 by post.

3. Learned counsel for the petitioner referred to the order of cancellation and pointed out that such order was issued on 27.02.2019. As a consequence, he submits that the petitioner had no reason to monitor the GST portal.

4. Mrs. K. Vasanthamala, learned Government Advocate (Tax), accepts notice on behalf of the respondent. On instructions, she submits

that the notice in Form GST ASMT-10 was sent and received by the petitioner by registered post. She also submits that the impugned order was dispatched to the petitioner by registered post.

5. On perusal of the impugned order, it appears that the tax liability pertains to a mismatch between the petitioner's GSTR 1 and GSTR 3B returns. Since the petitioner's GST registration was cancelled, at a minimum, the petitioner has little reason to continually monitor the GST portal.

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.

7. In the above facts and circumstances, the principles of natural justice demand that the petitioner be provided an opportunity to contest the tax demand. Therefore, the impugned order is quashed and the matter is remanded for reconsideration subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to within a maximum

period of two weeks from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply to the show cause notice within the aforesaid period. Upon receipt of such 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 date of receipt of the petitioner's reply.

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.

27.03.2024

Index : Yes
Speaking Order : Yes
Neutral Citation Case : Yes

klt

To

The Deputy State Tax Officer – I,
Arokanam (C) Assessment Circle,
Arokanam,
Vellore District.

SENTHILKUMAR RAMAMOORTHY, J.,

klt

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