IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8676 of 2024 and
W.M.P.Nos.9678 & 9679 of 2024

Sanjai Gandhi
Proprietor of M/s.Bluenest Services,
579, 1, Eswaran Layout,
Tatabad, Coimbatore-641 012. ...Petitioner

Vs.

The Deputy Commercial Tax Officer (ST),
Ram Nagar Assessment Circle,
Coimbatore-II, Tamil Nadu. ... 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 impugned assessment order in ZD330823182847X dated 31.08.2023 passed under Section 73 of the CGST/TNGST Act, 2017, for tax period 2018-2019 from the files of the respondent herein and quash the same.

For Petitioner : Ms.Aparna Nandakumar

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

O R D E R

An order dated 31.08.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity.

2. The petitioner is engaged in the business of supplying water purifiers and R.O. systems and providing services in relation thereto. Upon examining the returns of the petitioner, a notice in Form GST ASMT 10 was issued on 13.12.2021. The petitioner replied thereto on 12.01.2022. Thereafter, the petitioner asserts that he could not reply to the intimation or show cause notice since the same was uploaded on the GST portal and not served on the petitioner through any other mode.

3. Learned counsel for the petitioner submits that the impugned order pertains to discrepancies between the petitioner's GSTR 3B return and the auto-populated GSTR 2A as also between the GSTR 3B and GSTR 7 returns. She further submits that a detailed explanation was provided upon receipt of a notice in Form GST ASMT 10. On instructions, she submits that the petitioner is willing to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. By referring to the impugned order, learned counsel submits that the petitioner was provided multiple opportunities to contest the tax demand.

5. On perusal of the impugned order, it is evident that the confirmed tax demand relates to the discrepancies between the Input Tax Credit (ITC) claimed by the petitioner in Form GSTR 3B on comparison with the GSTR 2B. Such tax demand was confirmed without the petitioner being heard. The petitioner has also agreed to the payment of 10% of the disputed tax demand as a condition for remand. In these circumstances, it is just and necessary that the petitioner be provided an opportunity.

6. For reasons set out above, the impugned order is set aside on condition that the petitioner remits 10% of the disputed tax demand as agreed to within a 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 the petitioner's reply and upon being satisfied that the 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.

7. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

01.04.2024

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

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To

The Deputy Commercial Tax Officer (ST),
Ram Nagar Assessment Circle,
Coimbatore-II, Tamil Nadu.

SENTHILKUMAR RAMAMOORTHY,J.

Kj

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