IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.9107 of 2024
and
W.M.P.Nos.10127 and 10129 of 2024

Tech Venture
Rep by its Partner
M.Ramanathan
No.17-B, SIDCO Industrial Estate
Ambattur, Chennai - 600 098 ... Petitioner

Versus

1. Assistant Commissioner (ST)
   Amindakarai Assessment Circle
   F-50, First Avenue, Anna Nagar (EAST)
   Chennai - 600 102

2. Deputy Commissioner (ST)
   GST Appeal Chennai -I
   No.1, Greams Road,
   Chennai - 600 006 ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari to call for the impugned order of the first respondent passed in GSTIN/33AAFFT4005R1ZZ/2017-18 dated 31.10.2023 and quash the same.

For Petitioner : Mr.N.Murali

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

ORDER

An order dated 31.10.2023 is challenged on the ground that there was breach of principles of natural justice.

2. In relation to assessment period 2017-18, an intimation dated 06.02.2023 and show cause notice dated 13.05.2023 were issued to the petitioner. The petitioner did not reply thereto in view of the fact that multiple notices had been issued to the sister concern of the petitioner and the petitioner was in the process of replying thereto. The impugned order was issued in these facts and circumstances.

3. Learned counsel for the petitioner referred to the electronic credit ledger of the petitioner and pointed out that tax liability under two heads pertaining to "Tax declared through amendments" and "short payment of tax" were discharged through debits from the petitioner's electronic credit ledger. As regards the other three heads, learned counsel submits that the

petitioner seeks an opportunity to contest the tax demand.

4. Mrs. K. Vasanthamala, learned Government Advocate (Tax), accepts notice on behalf of the respondents. She submits that the petitioner may be put on terms with regard to the three heads of tax demand which the petitioner intends to contest if the matter is remanded.

5. The impugned order discloses that multiple opportunities were provided, including by offering personal hearings on several dates. The petitioner has placed on record its electronic credit ledger. The said document indicates that the tax liability in respect of "Tax declared through amendments" and "short payment of tax" were discharged through debits from the electronic credit ledger. The tax liability in respect of "Tax declared through amendments" is the largest tax demand under the impugned order.

6. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 5% of the disputed tax demand in respect of the three heads that as the petitioner intends to contest on merits.

7. Since the petitioner was not heard before the impugned order was issued, albeit by putting the petitioner on terms, interference with the impugned order is warranted. Solely for such reason, the impugned order is liable to be set aside.

8. Therefore, the impugned order dated 30.01.2023 is set aside subject to the condition that the petitioner remits 5% of the disputed tax demand in respect of turnover differences between GSTR 3B and P&L, ITC differences between GSTR 3B and GSTR 2A returns and tax sufferance for expenses. Such payment shall be made within three weeks from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply to these issues within the aforesaid period. Subject to receipt of the petitioner's reply and upon being satisfied that 5% of the disputed tax demand in respect of the above mentioned three issues was received, the respondent is directed to provide a reasonable opportunity, including a personal hearing, and thereafter issue a fresh order within two months from the date of receipt of the petitioner's reply.

9. W.P.No.9107 of 2024 is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

04.04.2024

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

klt

To

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