IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.9154 of 2024
and
W.M.P.No.10187 of 2024

Prince Bhandari,
No.3, Davidson Street,
Sowcarpet,
Chennai - 600 079. ... Petitioner

Versus

Assistant Commissioner (ST) (FAC)
Loansquare Assessment Circle,
Room No.309,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Vepery, Chennai - 600 003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorarified Mandamus calling for the records relating to passing of the impugned order bearing reference number GSTIN 33AAKPB4684K1ZK/2017-18 dated 03.11.2023 passed by the respondent and quash the same as the same being arbitrary, passed in violation of the principles of natural justice and consequently, direct the respondent to refund the amount of Rs.3,12,562/- recovered by the respondent from the bank account of the petitioner.

For Petitioner : Mr. G. Natarajan

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

ORDER

An order dated 03.11.2023 is assailed in this writ petition.

2. The petitioner states that he receives rental income and is liable to pay GST in respect thereof. Pursuant to a show cause notice dated 08.09.2023, it is stated that the impugned order was issued. Since the notice and the order were uploaded on the GST portal and not communicated to the petitioner in any other mode, the petitioner states that he was unaware of proceedings until action was initiated for recovery.

3. Learned counsel for the petitioner referred to the GSTR-1 statement relating to outward supplies and pointed out that the total taxable value of Rs.8,13,606/- was required to be indicated against the row pertaining to outward taxable supplies. Instead, he pointed out that it was erroneously reported in the row relating to inward supplies (liable to reverse charge). He submits that the confirmed tax demand was a result of this error. He also points out that the total tax liability along with interest and penalty thereon was appropriated from the petitioner's bank account pursuant to the attachment thereof. He seeks an opportunity to contest the tax demand on merits.

4. Mrs. K. Vasanthamala, learned Government Advocate (Tax), accepts notice on behalf of the respondent. She points out that principles of natural justice were complied with by issuing a show cause notice and offering personal hearing to the petitioner.

5. The petitioner has placed on record the relevant GSTR-1 statement and the GSTR-3B return for the month of July 2017-18. From the GSTR-3B return, it appears that the petitioner has specified a sum of Rs.8,37,605/- towards inward supply liable to reverse charge.

6. On examining the impugned order, it is evident that the entire tax liability is with regard to the discrepancies between GSTR-3B and GSTR-1 returns. By taking into account the fact that the entire tax liability and interest and penalty thereon was appropriated, it is just and necessary that the petitioner be provided an opportunity to contest the tax demand on merits.

7. Therefore, the impugned order dated 03.11.2023 is set aside and the matter is remanded for reconsideration to the respondent. The petitioner is permitted to submit a reply to the show cause notice within 15 days from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is

directed to provide an opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within two months from the date of petitioner's reply. The amounts appropriated from the petitioner's bank account shall abide by the outcome of the remanded proceedings.

8. W.P.No.9154 of 2024 is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petition is also closed.

04.04.2024

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

klt

To

The Assistant Commissioner (ST) (FAC),
Loansquare Assessment Circle,
Room No.309, No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Vepery, Chennai - 600 003.

SENTHILKUMAR RAMAMOORTHY,J

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