IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.9555 of 2024 and
W.M.P.Nos.10575 & 10576 of 2024

M/s.SPA Company,
Represented by its Managing Partner-A.Bharath,
Sari Palaniandavan Sago Factory,
51, Paithur Road,
Pudupet – 636 141,
Attur Taluk,
Salem District. ...Petitioner

Vs.

The State Tax Officer,
Attur Town Circle,
Attur. ... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the respondent in his proceedings in TIN:33063142131/2016-2017 dated 19.05.2023 and quash the same.

For Petitioner : Mr.Prasad N.

For Respondents : Mr.T.N.C.Kaushik,
Additional Government Pleader (T)

ORDER

An order dated 19.05.2023 under the Tamil Nadu Value Added Tax Act, 2006 is challenged on the ground that the petitioner was not provided a personal hearing after submitting a reply dated 07.03.2023.

2. The petitioner is a partnership firm represented by its managing partner. Upon receipt of a show cause notice dated 22.11.2022, the petitioner submitted a detailed reply on 07.03.2023. By asserting that one of the partners of the petitioner firm, Mr.P.Muthulingam, was hospitalised in February 2023, the petitioner asserts that the firm was unable to assail the impugned order earlier.

3. Learned counsel for the petitioner invited my attention to the reply dated 07.03.2023 and pointed out that the impugned order was issued after receipt of such reply on 19.05.2023 without providing a personal hearing to the petitioner. By adverting to the letter dated 18.03.2024 from the State Bank of India to the petitioner, he submits that a sum of Rs.9,17,000/- was appropriated from and out of the petitioner's bank account towards discharge of the liability under the impugned

order. He further points out that this sum represents about 50% of the total tax liability of Rs.18,60,567/-.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He points out that a personal hearing was offered under the show cause notice and that the petitioner failed to avail of the same.

5. On perusal of the impugned order, it is clear that the petitioner was not heard before such order was issued. The petitioner has placed on record evidence that a sum of Rs.9,17,000/- was remitted towards the tax demand by the petitioner's bank, State Bank of India, on 13.03.2024. In these circumstances, it is just and appropriate that the petitioner be provided an opportunity to contest the tax demand on merits. Solely for such reason, the order impugned herein calls for interference.

6. Therefore, the impugned order dated 19.05.2023 is set aside and the matter is remanded to the respondent for reconsideration. 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 a copy of this order. For the avoidance of doubt, it is made clear that the amount appropriated from the petitioner's bank account shall abide by the outcome of the remanded proceedings.

7. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

08.04.2024

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

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To

The State Tax Officer,
Attur Town Circle,
Attur.

SENTHILKUMAR RAMAMOORTHY,J.

Kj

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