IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.9572 of 2024
and
W.M.P.Nos.10589 & 10590 of 2024

Damodaran G ... Petitioner

Versus

The Deputy State Tax Officer – I,
Arakkonam Assessment Circle,
Arakkonam, Vellore,
Tamil Nadu. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari, to call for records from the file of respondent in the impugned assessment order in Ref. No.ZD330723123628E dated 28.07.2023 and impugned Summary order in Form DRC-07 dated 28.07.2023 for the Tax Period Apr 2022-Dec 2022 and quash the same as illegal, arbitrary, without jurisdiction and violative of principles of natural justice.

For Petitioner : Mr. B. Sivaraman

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

ORDER

An order dated 28.07.2023 is assailed on the ground of failure to provide a reasonable opportunity to the petitioner. The petitioner asserts that he had entrusted GST compliances to an accountant and that said accountant did not keep him informed of proceedings culminating in the impugned order dated 28.07.2023.

2. Learned counsel for the petitioner referred to the impugned order and submitted that the petitioner did not suppress the turnover. It is further submitted by learned counsel that the petitioner would be in a position to explain the alleged discrepancies between his GSTR-3B returns and GSTR-7 pertaining to tax deductors.

3. Mrs. K. Vasanthamala, learned Government Advocate, accepts notice on behalf of the respondent. She points out that a notice in Form ASMT-10 was issued to the petitioner as early as February 2023. She also points out that about three personal hearing notices were issued after the show cause notice. Since the petitioner was provided sufficient opportunities, she contends that no interference is warranted.

4. On examining the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not reply to the show cause notice or attend the personal hearings.

5. On instructions, learned counsel for the petitioner submits that the petitioner is willing to remit 10% of the disputed tax demand as a condition for remand.

6. Since the petitioner was not heard before the impugned order was issued, the interest of justice warrants that an opportunity be provided by putting the petitioner on terms.

7. Therefore, the impugned order dated 28.07.2023 is set aside and the matter remanded for reconsideration subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to within 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 to the show cause notice 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 two months from the date of receipt of the petitioner's reply.

8. W.P.No.9572 of 2024 is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

08.04.2024

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

klt

To

The Deputy State Tax Officer – I,
Arakkonam Assessment Circle,
Arakkonam, Vellore,
Tamil Nadu.

SENTHILKUMAR RAMAMOORTHY,J

klt

W.P.No.9572 of 2024
and
W.M.P.Nos.10589 & 10590 of 2024

08.04.2024