IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 10.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.9659 of 2024
and
W.M.P.Nos.10689 & 10690 of 2024

DV Industrial Corporation,
Rep. By its Proprietor,
Mr.Jitendra Jaiswal,
No.11 & 11, Victory Field,
Aringnar Anna Street,
Madhavaram,
Chennai-600 060. ... Petitioner

-vs-

The State Tax Officer, (ST),
Habour Assessment Circle,
No.32, Integrated Regn. & Commercial Taxes Building,
III Floor, Room No.327,
Elephant Gate Bridge Road,
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 on the file of the respondent in GSTIN.33ACUPJ6351K1Z6/2022-23 dated 03.07.2023 and to quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice and to direct the respondent to consider the letter of explanation dated 13.07.2023 submitted by the writ petitioner.

For Petitioner : Mr.S.Kanmani Annamalai

For Respondents : Mr.C.Harsha Raj
Addl. Government Pleader (Taxes)

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ORDER

An order dated 03.07.2023 is challenged on the ground that the petitioner was denied a reasonable opportunity to contest the tax demand on merits.

2. The petitioner received a show cause notice in Form ASMT-10 dated 28.02.2023. Such notice was replied to on 03.03.2023. By further notice dated 10.05.2023, the respondent called upon the petitioner to submit the documents listed in such communication.

The petitioner did not do so. The impugned order was issued in these facts and circumstances on 03.07.2023.

3. Learned counsel for the petitioner submits that the communication dated 10.05.2023 was not noticed by the petitioner. Therefore, he submits that the petitioner was in a position to provide the documents requested for by communication dated 10.05.2023 only subsequent to the order of 13.07.2023. In those circumstances, he seeks another opportunity to persuade the respondent by placing relevant documents on record. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He submits that the impugned order was issued because the petitioner failed to submit the documents called for by revised notice dated 10.05.2023.

5. The petitioner has placed on record a communication dated 13.07.2023 enclosing about seven documents. On perusal of the communication dated 10.05.2023, it appears that some of the documents requested for by such communication were provided by the petitioner, albeit after the order was issued. In these circumstances, by putting the petitioner on terms, it is just and appropriate to provide another opportunity to the petitioner.

6. For reasons set out above, the impugned order dated 03.07.2023 is set aside on 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 an additional reply with further documents within the aforesaid period. Upon receipt thereof 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.

7. W.P.No.9659 of 2024 is disposed of on the above terms and connected miscellaneous petitions are closed. No costs.

10.04.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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SENTHILKUMAR RAMAMOORTHY,J
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To

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