IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

WP.No.10677 and 10685 of 2024
WMP.Nos.11769, 11770, 11775 and 11776 of 2024

Vetri Vinayaka Metal Mark by its Proprietor
B.Alangara Vadivel, Coimbatore-641006 Petitioner-Both WPs

Vs

The Assistant Commissioner (ST)
Ganapathy Assessment Circle
Coimbatore 641018 Respondent-Both WPs

Prayer:- These Writ Petitions have been filed, under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of Respondent, in orders dated 16.11.2023 in GSTIN:33AMDPA8996L1ZM/2018-19 and GSTIN:33AMDPA8996L1ZM/2019-20 respectively and to quash the same.

For Petitioner : Mr.D.Derrick Sam

For Respondent : Mr.V.Prasanth Kiran, GA(T)

ORDER

1. Two assessment orders dated 16.11.2023 are challenged in these Writ Petitions on the ground that the Petitioner did not have reasonable opportunity to contest the tax demand on merits.

2. By contending that the Petitioner was unaware of the notices and the impugned orders since the same were uploaded on the “View Additional Notices and Orders” tab on the GST portal, the present Writ Petitions have

been filed.

3. Learned counsel for the Petitioner submits that input tax credit was reversed on the ground that the Petitioner had purchased goods from a non-existent dealer. Learned counsel further submits that if an opportunity is provided, the Petitioner would be in a position to establish that the purchases were genuine. On instructions, he submits that the Petitioner agrees to remit 10% of the disputed tax demand in respect of each assessment period as a condition for remand.
4. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the Respondent. He submits that the impugned orders were preceded by a show cause notice dated 12.01.2023 and personal hearing notices dated 16.02.2023 and 03.10.2023.
5. Upon examining the impugned orders, it is evident that the tax proposal was confirmed because the Petitioner failed to reply to the show cause notice or attend the personal hearing. Learned counsel for the Petitioner contended that the Petitioner would be able to establish that the purchases were genuine if an opportunity is provided. In these circumstances, it is just and necessary to provide an opportunity to the Petitioner to contest the tax demand on merits by putting the Petitioner on terms.
6. For the reasons set out above, the impugned orders are set aside on condition that the Petitioner remits 10% of the disputed tax demand in respect of each assessment period as agreed to within a period of two weeks from the date of receipt of a copy of this order. Within the aforesaid

period, the Petitioner is permitted to submit a reply to the respective show cause notice along with all relevant documents to establish that the purchases are genuine. Upon receipt of such documents and upon being satisfied that 10% of the disputed tax demand in respect of each assessment period was received, the Respondent is directed to provide a reasonable opportunity to the Petitioner, including a personal hearing, and thereafter issue fresh orders, within a period of three months from the date of receipt of the Petitioner's reply.

7. With the above directions and terms, this Writ Petition is disposed of. No costs. Consequently, the connected MPs are closed.

29.04.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Srcm

To

1. The The Assistant Commissioner (ST), Ganapathy Assessment Circle, Coimbatore 641018

SENTHILKUMAR RAMAMOORTHY, J.

Srcm

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