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W.P.No.10698 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10698 of 2024
&
WMP Nos.11784 & 11786 of 2024

Renaatus Projects Private Limited
Represented by Director Mr.P.Selvasundaram,
Second Floor, 139/2,
Kodambakkam High Road,
Nungambakkam, Chennai-600 034/. ... Petitioner

-vs-

1. State Tax Officer
Group - X,
Inspection-I, Chennai Intelligence-I,
No.1, PAPJM Buildings, Greams Road,
Thousand Lights, Chennai-600 006.
2. Assistant Commissioner (ST)
Intelligence-I,
Room No.241, 2nd Floor,
No.1, PAPJM Building, Greams Road,
Chennai-600 006. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari to call for the records relating to the Impugned Order bearing Reference Number



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ZD331223180815H dated 23.12.2023 passed by Assistant Commissioner (ST), Intelligence-I, Chennai-600 006, the Respondent No. 2 herein and consequential Rectification Rejection Order bearing Reference Number ZD330424040916H dated 04.04.2024 State Tax Officer Intelligence-I, Chennai-600 006, the Respondent 1 herein, quash the same.

For Petitioner : Mr.G.Shiva Kumar

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

ORDER

An order in original dated 23.12.2023 is assailed both on the ground of breach of principles of natural justice and on the ground that there are errors apparent on the face of record.

2. The petitioner is a company engaged in undertaking works contracts and turnkey projects, including Government projects, in Tamil Nadu, Puducherry and Mauritius. In Financial Year 2017-18, the total turnover of the petitioner was about Rs.200 crore. Proceedings were initiated against the petitioner by issuing show cause notice dated 27.09.2023. Such proceedings culminated in the



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impugned order dated 23.12.2023. The petitioner asserts that it was unable to respond to the show cause notice or participate in proceedings on account of not being aware of such proceedings. The present writ petition was filed in the above facts and circumstances after filing a rectification petition dated 14.03.2024.

3. Learned counsel for the petitioner submits that the impugned order travelled beyond the scope of the show cause notice. By inviting my attention to the show cause notice, learned counsel submits that the petitioner was called upon to show cause in respect of an aggregate tax proposal of Rs.12,56,99,874.83. In contrast, he submits that the confirmed tax proposal under the impugned order is for a sum of Rs.78,23,18,587/-. His next contention is with regard to the issue pertaining to turnover difference between the petitioner's annual return in Form GSTR 9 and the profit and loss account of the petitioner. He points out that the respondent noticed that the total turnover as per the profit and loss account was in the region of Rs.200 crore. Instead of reckoning the difference between such



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turnover and the turnover as per the GSTR 9, he submits that the first respondent made the patent error of adding the two and arriving at a total turnover of about Rs.330 crore. Consequently, he contends that a tax liability of Rs.59.56 crore was arrived at under this head. He further submits in this regard, that the difference between the turnover as per the GSTR 9 and the turnover as per the profit and loss account was explained in the reconciliation statement. He also points out that a Chartered Accountant's certificate was provided as part of the reconciliation statement. With reference thereto, he submits that a sum of Rs.64,95,26,013.18 pertained to the turnover during the pre GST period between April, 2017 and June, 2017. He further submitted that the total turnover included non GST Turnover of Rs.3,04,05,275/-. For both these reasons, learned counsel contends that the impugned order cannot be sustained. Without prejudice, on instructions, he submits that the petitioner agrees to remit a sum of Rs.2.5 crore as a condition for remand.



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4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondents. By referring to the show cause notice, learned Additional Government Pleader points out that the petitioner was put on notice and called upon to show cause with regard to the proposal to compute tax on the total turnover of Rs.330 crore as regards the difference in turnover between the profit and loss account and the GSTR 9 return. Consequently, he submits that principles of natural justice were complied with in substance. He further submits that the petitioner was provided sufficient opportunity to contest the tax demand on merits and that a large corporate entity, such as the petitioner, cannot be heard to state that it was unaware of such proceedings.

5. On perusal of the impugned order, it is evident that the respondent added the total turnover as per the profit and loss account and the turnover as per the annual return in GSTR 9. As a consequence, tax was computed on the sum of Rs.330 crore. Since the tax proposal pertains to turnover difference, the difference



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between the turnover as per the profit and loss account and the turnover as per the GSTR 9 should have been taken into consideration. To that extent, the impugned order calls for interference.

6. As contended by learned Additional Government Pleader, the record discloses that sufficient opportunity was provided to the petitioner by issuing intimation dated 20.09.2023, show cause notice dated 27.09.2023 and about three reminders in December 2023. The explanation of the petitioner that it was unaware of proceedings cannot be accepted especially in view of the petitioner being a large corporate entity. However, substantial liability was imposed on the petitioner without taking into consideration documents on record such as the GSTR 9C reconciliation statement. When these facts and circumstances are considered cumulatively, it is just and necessary to provide an opportunity to the petitioner to contest the tax demand, albeit on terms.



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7. For reasons set out above, the impugned order is set aside

subject to the condition that the petitioner remits a sum of Rs.2.50 crore within four 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 show cause notice by enclosing all relevant documents. Upon receipt of the petitioner's reply and upon being satisfied that Rs.2.50 crore was received towards the disputed tax demand, the first respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within three months from the date of receipt of the petitioner's reply. W.P.No.10698 of 2024 is disposed of on the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

23.04.2024

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

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SENTHILKUMAR RAMAMOORTHY,J

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To

1. State Tax Officer

Group - X,

Inspection-I, Chennai Intelligence-I,

No.1, PAPJM Buildings, Greams Road,

Thousand Lights, Chennai-600 006.

2. Assistant Commissioner (ST)

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