IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10856 of 2024
and W.M.P.No.11963 & 11964 of 2024

M/s.C.Ramamoorthy Contract & Lorry Service,
Represented by its Proprietor,
Mr.R.Silambarasan,
Old No.13, New No.419,
Kamadenu Nagar,
Banavaram Road, Pandiyanallore,
Sholinghur, Vellore-631 102. ...Petitioner

Vs.

The State Tax Officer,
Arakkonam Assessment Circle,
Ward B, Block-2S, T.S.No.22,
Gandhi Road, Arakkonam-531 001. .. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records in the order passed by the Respondent in the Summary of order dated 28-07-2023 in GSTIN No. 33CRHPS8220G1ZQ and in Form DRC-07 in Ref. No. ZD330723128522N dated 28-07-2023 and quash the orders as arbitrary and illegal.

For Petitioner : Ms.S.Yashiga
for Mr.Joseph Prabakar

For Respondent : Mr.V.Prashanth Kiran, Govt. Adv. (T)

ORDER

The order in original dated 28.07.2023 is challenged in this writ petition.

2. The petitioner provides goods transport agency services. The petitioner asserts that the services provided by him fall within the reverse charge mechanism under applicable GST enactments. It is further submitted that the petitioner was not aware of proceedings commencing by issuance of show cause notice dated 12.07.2022 because the notices and order were uploaded on the GST portal, but not communicated to the petitioner through any other mode.

3. Learned counsel for the petitioner referred to the communication dated 16.03.2024 from Brakes India Private Limited and pointed out that the recipient of services confirmed payment of GST during financial year 2018-2019. Since GST was paid on the relevant transaction, learned

counsel seeks another opportunity to contest the tax demand on merits. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He pointed out that the impugned order was preceded by a notice in Form GST ASMT 10, an intimation and a show cause notice. He also points out that personal hearing opportunities were provided on three different dates. As regards the communication dated 16.03.2024, he points out that such communication is subsequent to the date of the order in original.

5. In the affidavit, the petitioner asserts that the services provided by him fall within the reverse charge mechanism. The petitioner has also placed on record a communication from the recipient of services confirming that GST was paid in respect of services received in 2018-2019. In these circumstances, the interest of justice warrants that an opportunity be provided to the petitioner by putting the petitioner on terms.

6. For reasons set out above, the impugned order dated 28.07.2023 is set aside and the matter is remanded for reconsideration on condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of 15 days from the date of receipt of a copy of this order. The petitioner is permitted to submit a reply to the show cause notice within the aforesaid period. Upon receipt of the petitioner's reply 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 three months from the date of receipt of the petitioner's reply.

7. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

25.04.2024

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

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To

The State Tax Officer,
Arakkonam Assessment Circle,
Ward B, Block-2S, T.S.No.22,
Gandhi Road, Arakkonam-531 001.

SENTHILKUMAR RAMAMOORTHY,J.

Kj

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