IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.11483 of 2024
and
W.M.P. No.12588 of 2024

M/s. Orient Electricals and Engineers India (P) Ltd,
Rep.by its Director,
Mr. Maheswari Sridhar. V. ... Petitioner

Versus

Assistant Commissioner (ST),
Boradway Assessment Circle,
Integrated Commercial Taxes Building,
3rd Floor, 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 Certiorari, calling for the records relating to the impugned order bearing Reference CST/69942/ 2015-16 dated 12/01/2023, passed by the Respondent, quash the same.

For Petitioner : Mr. T.R. Ramesh

For Respondent : Mr. V. Prashanth Kiran,
Government Advocate (Tax)

ORDER

The petitioner was a dealer under the Tamil Nadu Value Added Tax Act, 2006 (the *VAT Act)* and under the Central Sales Tax Act, (the *CST Act)* 1956.

2. The petitioner asserts that he was unaware of the issuance of the impugned order dated 12.01.2023 until recently. Upon coming to know of such order, the petitioner filed a rectification petition because such order proceeded on the basis that the petitioner had inter-state sales during the relevant year.

3. By referring to Form-I, Form-WW and annexure thereto, learned counsel for the petitioner submits that the petitioner had only intra-state sales and that it was wrongly concluded that there were inter-state sales. Therefore, he seeks an opportunity to context the tax demand on merits. On instructions, he submits that the petitioner agrees to remit a sum of Rs.3,00,000/- (Rupees Three lakhs only) as a condition for remand.

4. Mr. V. Prashanth Kiran, learned Government Advocate (Tax),

accepts notice for the respondent. He points out that the impugned order is dated 12.01.2023. Consequently, he contends that the writ petition is liable to be rejected on the ground of laches.

5. On perusal of the impugned order, it is evident that tax liability was imposed on the basis that the petitioner's turnover from inter-state sales was Rs.58,14,484/-. The petitioner contends that such tax liability was arrived at on the misconception that the petitioner had inter-state sales. The total tax liability in the order impugned herein is Rs.8,43,100/. The petitioner has offered to pay a sum of Rs.3 lakhs as a condition for remand. In these facts and circumstances, it is just and appropriate that the petitioner be provided an opportunity to establish that there was no inter-state sales during the relevant assessment period.

6. For reasons set out above, the impugned order dated 12.01.2023 is set aside and the matter is remanded for reconsideration on condition that the petitioner remits a sum of Rs.3,00,000/- (Rupees Three lakhs only) within three 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 said period. The respondent is directed to provide a reasonable opportunity, including a personal hearing, and thereafter issue a fresh order within three months from the date of receipt of a sum of Rs.3 lakhs was received from the petitioner. For the avoidance of doubt, it is made clear that the deposit of Rs.3 lakhs is subject to the outcome of the remanded proceedings.

7. W.P.No.11483 of 2024 is disposed of on the above terms. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

30.04.2024

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

klt

To

The Assistant Commissioner (ST),
Boradway Assessment Circle,
Integrated Commercial Taxes Building,
3rd Floor, Elephant Gate Bridge Road,
Chennai – 600 003.

SENTHILKUMAR RAMAMOORTHY,J.

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