IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.04.2024**

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.11024 of 2024
&
WMP Nos.12103, 12105 & 12106 of 2024

M/s.G.Palanivelu, Contractor
No.46, Tharamangalam Road,
Periyakadampatty, Omalur,
Salem-636 306
GSTIN No.33AEUPP1242F1ZJ ... Petitioner

Versus

The Deputy State Tax Officer-2 (FAC),
Office of the State Tax Officer (State Taxes),
Edappadi Assessment Circle,
Vellandivalasu, Edapaddy,
Salem. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari calling for the records of the impugned proceedings of the Respondent in Form GST DRC-07 in GSTIN:33AEUPP1242F1ZJ/2020-2021 dated 24.11.2023 and quash the same as illegal and contrary to law.

For Petitioner : Mr. S. Rajasekar

For Respondent : Mrs. K. Vasanthamala
Government Advocate (Taxes)

ORDER

An order dated 24.11.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner is engaged in executing contract work for various government institutions. Proceedings were initiated against the petitioner upon scrutiny of the petitioner's returns. Such proceedings culminated in the orders impugned herein. The petitioner asserts that he was not aware of these proceedings since the auditor entrusted with GST compliances was unwell.

3. Learned counsel for the petitioner submits that the values reflected in the GSTR 7 of the recipient of services was duly reflected in the petitioner's GSTR 3B return for the month of September 2022-23, and that the GSTR-9 and GSTR-9C returns were not taken into account by the respondent.

4. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 10% of the tax demand as a condition for remand.

5. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She points out that the intimation and show cause notice were followed by multiple reminders and that, therefore, the petitioner had sufficient opportunity to contest the tax demand.

6. On perusal of the impugned order, it appears that the confirmed tax demand pertains to TDS deductions made by Government Departments. Learned counsel for the petitioner submits that all these deductions were reported in subsequent returns. In these circumstances, it is just and necessary to provide an opportunity to the petitioner.

7. Therefore, the impugned order dated 24.11.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within two weeks from the date of receipt of a copy of this order. The

petitioner is also permitted to submit a detailed reply to the show cause notice within the aforesaid period. Upon receipt of such 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. Since the impugned assessment order has been set aside, the bank attachment is raised.

8. W.P.No.11024 of 2024 is disposed of on the above terms and connected miscellaneous petitions are closed. No costs.

24.04.2024

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

To

The Deputy State Tax Officer-2 (FAC),
Office of the State Tax Officer (State Taxes),
Edappadi Assessment Circle, Vellandivalasu, Edapaddy,
Salem.

SENTHILKUMAR RAMAMOORTHY,J.

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