IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.11631 of 2024
and
W.M.P. Nos.12719 & 12722 of 2024

Tvl.Vimal Telelinks,
Rep.by its Partner – K. Vimala ... Petitioner

Versus

The Deputy Commercial Tax Officer,
Gobichettipalayam,
Erode. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari, calling for the records on the files of the impugned proceedings of the Respondent in Order GSTIN No.33AAIFV6579M1ZD bearing a Ref. No. ZD331023049604S dated 10.10.2023 for the tax period year April 2021- March 2022 along with the consequential order in Form GST DRC-07 dated 10.10.2023.

For Petitioner : Ms. R. Harshini

For Respondent : Mr. Harsha Raj,
Additional Government Pleader (Tax)

ORDER

The petitioner assails an order dated 10.10.2023 on the ground of breach of principles of natural justice.

2. Upon scrutinizing the records of the petitioner, a notice in Form ASMT-10 was issued on 23.03.2023. This was followed by intimation dated 24.03.2023 and show cause notice dated 22.06.2023. By asserting that the petitioner was unaware of these proceedings because the intimation and show cause notice were uploaded on the GST portal but not communicated to the petitioner through any other mode, the present writ petition was filed.

3. Learned counsel for the petitioner referred to the show cause notice and pointed out that the tax liability indicated therein was Rs.33,270/-. In contrast, she points out that the impugned order confirms the tax liability of Rs.1,84,835/-. On instructions, she submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr. C. Harsha Raj, learned Additional Government Pleader, accepts notice on behalf of the respondent. He points out that the petitioner was provided sufficient opportunity by way of notice in Form ASMT-10, intimation and show cause notice.

5. On perusal of the show cause notice, it appears that the petitioner was called upon to show cause with regard to the proposed tax liability of Rs.33,270/-. When this is compared with the notice in Form ASMT-10 and the impugned order, in these documents, the discrepancy /confirmed tax liability was specified as Rs.1,84,835/-.

6. Since the tax proposal was confirmed without the petitioner being heard and by taking note of the discrepancy indicated above, it is just and appropriate that the petitioner be provided an opportunity, albeit by putting the petitioner on terms.

7. For reasons set out above, the impugned order dated 10.10.2023 is set aside and the matter is remanded to the respondent for reconsideration subject to the condition that the petitioner remits 10% of

the disputed tax demand of Rs.1,84,835/- within 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 show cause notice. Upon receipt thereof, and upon being satisfied that 10% of the disputed tax demand was received, the respondent is directed to provide an 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.

8. W.P.No.11631 of 2024 is disposed of on the above terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

30.04.2024

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

klt

To

The Deputy Commercial Tax Officer,
Gobichettipalayam,
Erode.

SENTHILKUMAR RAMAMOORTHY,J.

klt

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