IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.11545 of 2024
and
W.M.P.Nos. 12641 & 12643 of 2024

SANJAY LOGISTICS,
Rep.by its Proprietor
Mr. Suresh Kumar ... Petitioner

Versus

The Assistant Commissioner (ST),
Office of the Assistant Commissioner (ST),
Muthialpet, Zone-I,
Chennai North Division, Chennai. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari, calling for the records culminated in the impugned order dated 15.09.2023 in GSTIN 33BANPS1421H2ZS issued by the respondent and quash the same as illegal.

For Petitioner : Mr. B. Vijay Anand

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

ORDER

An order in original dated 15.09.2023 is challenged in this writ petition.

2. The petitioner asserts that he is engaged in the business of transportation of goods. He asserts that he purchased two trucks for the purpose of conducting business. In relation thereto, after issuing show cause notice dated 11.08.2023, the impugned order was issued. The petitioner asserts that he was unaware of proceedings culminating in the impugned order because the notice and order were uploaded on the GST portal but not communicated to the petitioner through any other mode.

3. Learned counsel for the petitioner placed on record evidence of payment of 10% of the disputed tax demand on 15.02.2024. He further submits that the purchase of trucks was made in furtherance of the business and, therefore, the petitioner is entitled to avail of Input Tax Credit (*ITC)* in respect thereof. If provided an opportunity, learned counsel submits that the petitioner would be in a position to satisfy the respondent that the petitioner's availment of ITC was in order.

4. Mr. C. Harsha Raj, learned Additional Government Pleader, accepts notice on behalf of the respondent. By inviting my attention to the impugned order, he submits that such order was preceded by a notice in Form ASMT-10, dated 17.10.2023 and show cause notice dated 11.08.2023.

5. On perusal of the impugned order it is evident that such order pertains to the purchase of vehicles by the petitioner on 28.02.2023. Since the petitioner asserts that the purchases were in furtherance of business, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits, albeit by putting the petitioner on terms.

6. For the reasons set out above, the impugned order dated 15.09.2023 is set aside subject to the respondent being satisfied that 10% of the disputed tax demand was received. The petitioner is also permitted to submit a reply to the show cause notice within 15 days from the date of receipt of a copy of this order. 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. W.P.No.11545 of 2024 is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

29.04.2024

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

klt

To

The Assistant Commissioner (ST),
Office of the Assistant Commissioner (ST),
Muthialpet, Zone-I,
Chennai North Division, Chennai.

SENTHILKUMAR RAMAMOORTHY,J.

klt

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