IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.12292 of 2024
and
W.M.P.Nos.13394 & 13395 of 2024

Tvl. SPX Thermal Equipment & Service India Pvt.Ltd.,
Rep.by its Director, Mr. Ramarathinam ... Petitioner

Versus

The Assistant Commissioner (ST),
Valluvarkottam Assessment Circle,
No.10, Palaniyappa Maligai,
4th Floor, Greams Road,
Chennai – 600 006. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the respondent proceedings in CST/1219437/2015-16 dated 22.05.2023 and quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice and contrary to the principle laid down by this Court and direct the respondent to consider the petitioner petition dated 04.08.2023 or issue such other writ, or direction as this Court may think deem and fit proper in the circumstance of the case.

For Petitioner : Mr. D. Vijayakumar

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

ORDER

By this writ petition, the assessment order dated 22.05.2023 is challenged. An assessment order was issued against the petitioner in respect of transit sales made by the petitioner. On the basis that the order contained errors apparent inasmuch as the assessing officer travelled beyond the scope of proceedings and imposed liabilities on issues that had been decided in favour of the tax payer under the earlier assessment order dated 26.02.2018, the petitioner filed a rectification petition dated 04.08.2023. Such rectification petition has not been disposed of as on date. The present writ petition was filed in these facts and circumstances.

2. Learned counsel for the petitioner invited my attention to the rectification petition and pointed out that the assessment order dated 22.05.2023 had imposed tax liability on turnover of Rs.2,42,01,883/-, which was not a part of the original assessment order dated 26.02.2018. He further submitted that the turnover covered by C-Forms were taxed originally at 2%, whereas, the subsequent assessment order dated

22.05.2023 imposes tax thereon at 14.5%.

3. Mr. C. Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He points out that the impugned assessment order is dated 22.05.2023 and that the petitioner has approached this Court after considerable delay especially considering the limitation period of 60 days for filing a statutory appeal. He also points out that the petitioner filed a rectification petition and cannot maintain two proceedings concurrently.

4. The admitted position is that the rectification petition dated 04.08.2023 is pending consideration. Such petition was filed on the basis that there are errors apparent in the assessment order dated 22.05.2023, especially in comparison to the earlier order dated 26.02.2018. In these circumstances, it is just and appropriate that the respondent be directed to dispose of the rectification petition expeditiously.

5. Hence, W.P.No.12292 of 2024 is disposed of by directing the

respondent to consider and dispose of rectification petition dated 04.08.2023 within 30 days from the date of receipt of a copy of this order, after providing a reasonable opportunity to the petitioner. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

05.06.2024

Index : No
Speaking
Neutral Case Citation : No

klt

To

The Assistant Commissioner (ST),
Valluvarkottam Assessment Circle,
No.10, Palaniyappa Maligai,
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SENTHILKUMAR RAMAMOORTHY,J

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