IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.12684 of 2024
and
W.M.P.Nos.13833 & 13835 of 2024

M/s. Dhirani Metal Industries,
Rep.by its Proprietor Mr. Deepak Mehta ... Petitioner

Versus

The Assistant Commissioner (ST),
Broadway Assessment Circle,
No.32, Integrated Commercial Taxes Building,
3rd Floor, Elephant Gate Bridge Road,
Vepery, Chennai – 3. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari to call for the records of the respondent in Order dated 22/6/23 in GSTN 33ADSP4005B1Z8/2021-22 and the consequential rectification order dated 28/03/24 and quash the same as illegal, arbitrary and in violation of principle of natural justice.

For Petitioner : Mr. C. Rekhakumari

For Respondent : Mrs. K. Vasanthamala,
Government Advocate (Tax)

ORDER

By this writ petition, the petitioner assails both the original assessment order and the order rejecting the rectification petition.

2. Pursuant to the show cause notice dated 26.08.2022, assessment order dated 22.06.2023 was issued. The petitioner asserts that he was unaware of proceedings because the show cause notice and the order were uploaded in the “View Additional Notices are orders” tab on the GST portal and not communicated to the petitioner through any other mode. In spite of rectifying the alleged mismatch by filing GSTR-9 and GSTR-9C returns, it is stated that the rectification petition was rejected.

3. Learned counsel for the petitioner submits that the petitioner uploaded the annual return and reconciliation statement before the impugned assessment order was issued and thereby resolved the issue arising out of the mismatch between the GSTR-3B and the auto-populated GSTR-2A. She also submits that the entire tax demand, interest and penalty of Rs.3,54,558/- was appropriated from the petitioner's bank account in March 2024. She seeks another opportunity for the petitioner to

contest the tax demand on merits.

4 On perusal of the impugned order, it is evident that the tax proposal pertains to a mismatch between the GSTR-3B return and the auto-populated GSTR-2A. The petitioner also placed on record the annual return in Form GSTR-9 and reconciliation statement in Form GSTR-9C. The documents on record disclose that the entire liability towards tax, interest and penalty was appropriated from the petitioner's bank account. In these circumstances, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits.

5. For reasons set out above, the impugned order dated 26.12.2023 is set aside and the matter is remanded for reconsideration. The petitioner is permitted to submit a reply to the show cause notice within two weeks from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh assessment order within three months from the date of receipt of the petitioner's reply.

6. For the avoidance of doubt, it is made clear that the sum of Rs.3,54,558/-, which was appropriated from the petitioner's bank account, shall abide by the outcome of the remanded proceedings.

7. The Writ Petition is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

06.06.2024

Index :No
Speaking
Neutral Case Citation :No

klt

To

1.Assistant/Deputy Commissioner of Income Tax (International Taxation),
Circle 1 (1)(1), Income Tax Department,
Delhi – 110 002.

2.Income Tax Officer,
Non-Corp Ward 22(1), Income Tax Department,
West Tambaram, Chennai – 45.

SENTHILKUMAR RAMAMOORTHY,J

klt

W.P.No.12684 of 2024
and
W.M.P.Nos.13833 & 13835 of 2024

06.06.2024