IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.12889 of 2024
and
W.M.P.Nos.14056 & 14057 of 2024

Tvl. Uniform Collections,
Rep.by its Proprietrix Bhagwathi Devi Bisani ... Petitioner

Versus

1.The Deputy Commercial Tax Officer,
Kothawalchavadi Zone I, Chennai North,
Integrated Commercial Taxes Office Complex,
Room No.313, 3rd Floor, Vepery,
Chennai – 600 003.

2.The Assistant Commissioner (ST),
Kothawalchavadi Assessment Circle,
Integrated Commercial Taxes Building,
No.32, Elephant Gate Bridge Road,
Chennai – 600 003.

3.The Branch Manager,
City Union Bank Limited,
Old No.154, New No.319,
Thambu Chetty Street, George Town,
Chennai – 600 001. ... Respondents

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 relating to the impugned order first respondent in TN-GST/33AEKPB2144Q1ZH/2019-2020 dated 10.07.2023 along with Order and Summary of Order in Referrence No.ZD330723032593J, dated 10.07.2023 33AEKPB2144Q1ZH/2024 dated 23.01.2024 along with Form GST DRC-13 dated 23.01.2024 issued by the first respondent to the third respondent and quash the same and consequently direct the first respondent to entertain the records, documents and reply from the petitioner and then pass order after affording a personal hearing to the petitioner and pass such other order as this Court my deem fit and proper in the circumstances of the case.

For Petitioner	:	Ms. Samhita Srinivas for Mr. M. Hariharan
For Respondents	:	Mr. T.N.C. Kaushik, (for R1 & R2) Additional Government Pleader (Tax)

ORDER

An order in original dated 10.07.2023 is assailed on the ground of breach of principles of natural justice.

2. By asserting that the show cause notice and the impugned order were uploaded in the "View Additional Notices and Orders" tab on the

GST portal and not communicated to the petitioner through any other mode, the present writ petition was filed.

3. Learned counsel for the petitioner submits that the petitioner was unaware of proceedings culminating in the impugned order and, therefore, could not participate in such proceedings. If provided an opportunity, learned counsel submits that the petitioner would be in a position to effectively contest the tax demand on merits. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr. T.N.C. Kaushik, learned Additional Government Pleader, accepts notice on behalf of the first and second respondents. He points out that a notice in Form ASMT-10 was issued to the petitioner upon noticing discrepancies in the returns filed by the petitioner. This was followed by the show cause notice dated 17.01.2023 and a personal hearing notice. Therefore, he submits that principles of natural justice were complied with.

5. On examining the impugned order, it is clear that the tax

proposal, which pertains to a mismatch between the petitioner's GSTR-3B returns and the auto-populated GSTR-2A, was confirmed because the petitioner did not respond to the show cause notice or participate in the offered personal hearing. In the facts and circumstances outlined above, the interest of justice warrants that an opportunity be provided to contest the tax demand on merits, albeit by putting the petitioner on terms.

6. For reasons set out above, the impugned order dated 10.07.2023 is set aside and the matter is remanded for reconsideration subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to within two weeks from the date of receipt of a copy of this order. Within the aforesaid period, the petitioner is permitted to reply to the show cause notice. Upon receipt thereof and upon being satisfied that 10% of the disputed tax demand was received, the first 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. In view of the assessment order being set aside, the consequential attachment is raised.

7. The writ petition is disposed of with the above terms. There shall

be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

07.06.2024

Index : Yes/No
Speaking/Non-Speaking Order
Neutral Case Citation : Yes/No

klt

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