IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.14278 of 2024
and
W.M.P. Nos.15493 & 15494 of 2024

Susheel Jewellery Mart Private Limited,
Represented by its Managing Director,
Mr.Dasaratharamasetty Manohar,
No.100, M.G.Road,
Hosur-635 109. ... Petitioner

Versus

1.Deputy Commissioner of Income Tax,
Central Circle 3(3), Chennai,
3rd Floor, Investigation Building,
No.46, (Old.No.108),
Mahatma Gandhi Road,
Chennai-600 034.

2.Additional Commissioner of Income-Tax,
Central Range-I, No.46,
Mahatma Gandhi Road,
Chennai-600 034. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari, to call for the records on the file of the first respondent and quash the impugned order dated 28.03.2024 for the assessment year 2022-23 passed by the 1st respondent under section

143(3) of the Income Tax Act, 1961, bearing No.ITBA/AST/S/143(3)/2023-24/1063558595(1), and the consequent demand notice dated 28.03.2024 for the assessment year 2022-23 issued by the 1st Respondent under Section 156 of the Income Tax Act, 1961, bearing No.ITBA/AST/S/156/2023-24/1063448668(1), and the notice dated 28.03.2024 for the assessment year 2022-23 issued by the 1st respondent under Section 274 read with Section 270A of the Income Tax Act, 1961, bearing No.ITBA/PNL/S/270A/2023-24/163558713(1).

For Petitioner : Ms. Manasa Ananthan

For Respondent : Mrs. A.P.Srinivas.
Senior Standing Counsel

ORDER

An assessment order dated 28.03.2024 for assessment year 2022-23 is challenged on the ground of breach of principles of natural justice.

2. After issuing notices under Section 142(1) of the Income Tax, 1961 (the "*I-T Act*"), in relation to aforementioned assessment period, show cause notice dated 28.03.2024 was issued to the petitioner. The petitioner replied thereto on 07.03.2024, 14.03.2024, and 18.03.2024. The impugned order was issued thereafter.

3. Learned counsel for the petitioner invited my attention to the e-mail dated 25.03.2024 enclosing the ledger and invoices in respect of 30 vendors. She submits that the these invoices were not accessed by the Income Tax Department. By referring to the counter affidavit of the first respondent, particularly paragraph No.13 thereof, she submits that the first respondent stated that the e-mail merely provided links to the external cloud storage, which was not accessible to the Department. She further submits that the confirmed tax proposal relates to purchases made by the petitioner from about 61 vendors. During assessment proceedings, she submits that the petitioner submitted a presentation, wherein, inadvertently, the petitioner failed to remove double entries relating to payments reflected in journal entries in the head and branch offices. If the invoices and the reconciliation statements are examined, she submits that it would be clear that the value of purchase from each vendor corresponds to the confirmation letter provided by the vendor concerned.

4. Mr. A.P.Srinivas, learned senior standing counsel, appears on

behalf of the respondent. By referring to the impugned assessment order, he points out that at least two notices were issued under Section 142(1) and the assessee was provided sufficient opportunity to submit necessary documents and clarifications. Since the assessee failed to provide complete information, he submits that the respondent was constrained to issue a show cause notice. Even thereafter, he submits that the assessee had sufficient opportunity and that this is evident from the fact that the assessee filed three replies. After considering these replies, he submits that the assessing officer examined the confirmation letters provided by the 61 vendors. Out of the 61 vendors, he submits that the confirmation letters from 41 parties tallied with the purchase value indicated by the petitioner. Since the documents on record and replies of the petitioner were duly considered, learned senior standing counsel submits that no case is made out for interference under Article 226 of the Constitution of India.

5. In paragraphs 10 & 11 of the impugned assessment order, it is recorded as under:-

> *“10. In response to the same, the assessee*

submitted its reply vide e-mail dated 25.03.2024. In its reply, the assessee submitted the copies of bank account statements. Claiming the same containing payments to the suppliers. Further, in its reply the assessee has stated that the copies of invoices (Vendor wise) are also attached.

11. However, on perusal of the reply of the assessee, it was seen that no such invoices were submitted by the assessee, whereas only the bank account statement was only submitted by the assessee, claiming the same contains payments to the suppliers. From the above, it can be seen that various opportunities were provided to the assessee to substantiate its claim towards purchases made from the above parties, however, the assessee has not submitted any invoice copies towards the purchases made."

The above paragraphs disclose that the invoices were not accessible to the assessing officer.

6. The petitioner has placed on record the relevant e-mail, which

prima facie shows that invoices from 30 vendors are attached as PDF's. Learned counsel for the petitioner contends that the discrepancy in purchase value would stand fully reconciled if these invoices are examined conjointly with the reconciliation statement. This makes out a case for reconsideration. Because the petitioner had sufficient opportunity, including a personal hearing, and failed to provide all these documents in time, it is just and necessary that costs be imposed on the petitioner.

7. For reasons aforesaid, the impugned order dated 28.03.2024 is set aside on condition that the petitioner pays a sum of Rs.30,000/- as costs to the Adyar Cancer Institute, Chennai, within 15 days from the date of receipt of a copy of this order. The petitioner is permitted to submit invoices and any other documents within the aforesaid period of 15 days. Upon receipt thereof, the assessing officer 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 additional documents from the petitioner.

8. The Writ Petition is disposed of on the above terms.

Consequently, the connected miscellaneous petitions are also closed.

05.07.2024

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

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To

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