IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.14261 of 2024
&
WMP Nos.15465 & 15467 of 2024

M/s.Vijaya Builders,
GSTIN 33AGFPV6557N2ZM,
Represented by its Proprietor Ponnusamy Devar Velladurai,
13, Subbammal Illam, Sri Rajeswari Nagar,
Saravanapatti, Coimbatore-641 035. ... Petitioner

Versus

The State Tax Officer
Saravanampatti West Circle, Commercial Tax Building,
Dr.Balasundaram Road,
Coimbtore-641 018. ... Respondent

Prayer : A Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari to call for the records pertain to the impugned order in FORM GST DRC-07 Reference No.ZD330223123267U/2020-21 dated 24.02.2023, issued by the Respondent and quash the same.

For Petitioner : Mr.C.Derrick Sam

For Respondent : Mr. T.N.C.Kaushik

Addl. Govt. Pleader (T)

ORDER

In this writ petition, assessment order dated 24.02.2023 is assailed primarily on the ground of breach of principles of natural justice.

2. The petitioner asserts that he was unaware of the proceedings culminating in the order impugned herein because such order was uploaded on the "View Additional Notices and Orders" tab on the GST portal and not communicated to the petitioner through any other mode.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that the impugned assessment order indicates that the petitioner was provided sufficient opportunity in as much as the impugned assessment order was preceded by an intimation in Form GST DRC-01A and a show cause notice in Form GST DRC-01. He also points out that personal hearings were offered to the petitioner on at least two dates.

4. As a registered person under applicable GST statutes, the explanation of the petitioner that he was unaware of the notices and the assessment order is not entirely convincing. The petitioner was also granted sufficient time for personal hearing through the SCN and reminders dated 14.11.2022 and 06.01.2023.

5. The petitioner asserts that payment of an aggregate sum of Rs.5,50,000/- was made under Form DRC-03 for other assessment periods and that such payments were not adjusted. This aspect is required to be verified. Subject to this condition, it is just and necessary to provide an opportunity to the petitioner to contest the tax demand.

6. Subject to and conditional upon the availability of at least 10% of the disputed tax demand from and out of remittance previously made by the petitioner, the impugned order is set aside and the matter is remanded to the assessing officer for reconsideration. The petitioner is permitted to submit a reply to the

show cause notice within a maximum period of fifteen days from the date of receipt of a copy of this order. After being satisfied about the fulfillment of the above condition, 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 a period of two months from the date of receipt of the petitioner's reply.

7. W.P.No.14261 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos 15465 and 15467 of 2024 are closed.

11.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes/ No
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To

The State Tax Officer
Saravanampatti West Circle, Commercial Tax Building,
Dr.Balasundaram Road,
Coimbtore-641 018.

SENTHILKUMAR RAMAMOORTHY J.

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