IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.05.2024

CORAM :

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P No.13973 of 2024
and
W.M.P.Nos.15162 & 15163 of 2024

M/s. Bombay Hardware Pvt. Ltd.,
rep. By its Director Veeran Jawaharlal Mehhta
32, Sembudoss Street,
Corner Estate, 1st Floor,
Chennai 600 001 ... Petitioner

/Vs/

1. The Assistant Commissioner(ST),
   Intelligence-I,
   Room No.241, 2nd Floor,
   No.1, PAPJM Building,
   Greams Road, Chennai – 600 006.

2. Assistant Commissioner(ST)
   Broadway Assessment Circle,
   Integrated Building for Commercial Taxes Dept.,
   Chennai North Division,
   32, Elephant Gate Bridge Road,
   Vepery, Chennai 600 003.

...Respondents

PRAYER : Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the 1st respondent in reference No. ZD331223210475W and quash the order dated 26.12.2023 passed therein.

For Petitioner : Mrs. Hema Muralikrishnan

For Respondents : Mr. K. Vasantha mala
Government Advocate

ORDER

The writ petition has been filed to quash the order dated 26.12.2023 in reference No.ZD331223210475W on the ground that the proceedings have taken place violating the principles of natural justice.

2. Heard Mrs. Hema Muralikrishnan, learned counsel for the petitioner and Mr.K.Vasanthamala, learned Government Advocate for the respondents.

3. The grievance of the petitioner is that show cause notice has been posted in the "View Additional Notices" tab, instead of "View Notices" tab, which is the normal practice. The petitioner would have

had an opportunity to contest the proceedings effectively, if it was posted in the “View Notice” tab. On 17.05.2024, the petitioner has also paid 10% of the tax demanded by the first respondent in the impugned order.

4. She has also placed reliance on the decision of this Court in the case of ***Sabari Infra Pvt. Ltd. /vs/ Assistant Commissioner (ST) in W.P.Nos.22369, etc., of 2023 dated 31.07.2023*** reported in ***2023(10) Centax 92 (Mad.) ,*** wherein similar circumstances, this Court has held that the petitioner should be given a fair opportunity and the matter was remitted back to the Department to pass a fresh assessment order, after hearing the writ petitioner.

5. Following the decision passed by this Court in the above writ petition in WP. Nos.22369, etc., dated 31.07.2023, I am inclined to allow the writ petition with the following directions:

(i) the writ petition is **allowed** and the order dated 26.12.2023 in reference No. ZD331223210475W passed by the 1st respondent is set aside.

(ii) the petitioner shall be called for an enquiry by the respondent Department and the first respondent shall pass a fresh Assessment Order in accordance with law within a period of eight weeks from today.

Consequently connected miscellaneous petitions are closed. No costs.

22.05.2024

Internet : Yes/No 1/3
Index: Yes/No
Neutral Citation: Yes/No
Speaking Order: Yes/No
mrp/rkp

To

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P.B.BALAJI, J.,

mrp/rkp

W.P No.13973 of 2024

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22.05.2024