IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15030 of 2024
and WMP Nos.16332 and 16333 of 2024

M.Nataraj
S/o. Muthuvel,
Proprietor:Muthuvel Rice and Oil Mill
No.103, Uppupalayam Road,
Vellakovil 638 111
Tiruppur District. . ..Petitioner

Vs.

The Assistant Commissioner (ST)
Vellakovil Assessment Circle, Kangeyam,
Tiruppur District. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorarified Mandamus, calling for records pertaining to the impugned order passed by the respondent vide his order in GSTIN:33AACHN1094D1ZM/2019-2020 dated 30.10.2023 and quash the same as it is illegal and in gross violation of Principles of Natural Justice and further direct the respondent to re-do the assessment afresh after providing an opportunity of person hearing as per the provisions of the GST Act.

For Petitioner : Mr.A.Satheesh Murugan

For Respondent : Mr.V.Prasanth Kiran
Government Advocate (T)

O R D E R

The petitioner assails an order dated 30.10.2023 on the ground of breach of principles of natural justice. By asserting that the show cause notice and impugned order were uploaded on the GSTN portal but not communicated to the petitioner through any other mode, the present Writ Petition was filed.

2. Learned counsel for the petitioner states that the petitioner became aware of the assessment order only upon the bank account being attached on 13.03.2024. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that principles of nature justice were complied with by issuing intimation dated 26.12.2022, show cause notice dated 07.09.2023 and more than one personal hearing notice.

4. On examining the impugned order, it is clear that the tax proposal pertains to non-payment/short payment of tax on outward supplies. Such proposal was confirmed because the petitioner failed to reply to the show cause notice. In view of the contention that the petitioner could not participate in proceedings on account of being unaware of the same, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits by putting the petitioner on terms.

5. For reasons set out above, the impugned order dated 30.10.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within a period of two weeks from the date of receipt of a copy of this order. Within the aforesaid period, the petitioner is permitted to submit a reply to the show cause notice. Upon receipt thereof and on being satisfied that 10% of the disputed tax demand was received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of three months from the date of receipt of the petitioner's reply. On account of the assessment order being set aside, the bank attachment is raised.

6. The Writ Petition is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are closed.

18.06.2024

jv

Index:Yes/No
Internet:Yes/No
Speaking order/Non Speaking order
Neutral Citation: Yes/No

To:-

The Assistant Commissioner (ST)
Vellakovil Assessment Circle, Kangeyam,
Tiruppur District.

SENTHILKUMAR RAMAMOORTHY, J.

jv

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