IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15053 of 2024
and WMP Nos.16362 and 16363 of 2024

M/s. Bhavitron Powertec Pvt Ltd.,
Rep. by its Managing Director,
Mr.N.P.Prakash,
No.13, Electrical Industrial Estate,
Kakalur, Tiruvallur 602 003. ..Petitioner

Vs.

The State Tax Officer (ST)
Thiruvallur Assessment Circle,
Nazarethpettai 600 123. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorari, calling for the records on the file of the respondent and to quash the impugned order dated 09.11.2023 bearing GSTIN: 33AAFCB5878F1ZL/2017-18 passed by the respondent as arbitrary.

For Petitioner : Mr.J.Ashish

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader (T)

ORDER

An assessment order dated 09.11.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. By asserting that the intimation dated 13.07.2022 and the show cause notice dated 28.09.2023 did not contain the digital signature of the respondent and that this is in violation of Rule 26 of the Tamil Nadu Goods and Services Tax Rules 2017, the present Writ Petition was filed.

2. Learned counsel for the petitioner invited my attention to the intimation and show cause notice and pointed out that these documents do not contain the digital signature of the State Tax Officer. By contrast, he points out that the impugned assessment order contains the digital signature of the State Tax Officer.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He points out that principles of natural justice were complied with by issuing intimation dated 13.07.2022 and show cause notice dated 28.09.2023. He also points out that the impugned order contains the digital signature of the respondent.

4. The admitted position is that the petitioner obtained a copy of the show cause notice in May 2024. The petitioner asserts that he was unaware of the said notice until then because the same was uploaded on the GST portal. On examining the intimation and show cause notice, it appears *prima facie* that the said documents do not bear the digital signature of the respondent, whereas the impugned order bears the digital signature.

5. By taking into consideration the above facts and circumstances, it is just and appropriate that the impugned order be treated as a show cause notice so as to enable the petitioner to respond thereto.

6. For the reasons set out above, WP No.15053 of 2024 is disposed of by directing that impugned order dated 09.11.2023 be treated as a show cause notice. Consequently, the petitioner is permitted to submit a reply thereto within 15 days from the date of receipt of a copy of this order. Upon receipt thereof, 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. In view of this order, the Bank attachment is raised.

7. 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 State Tax Officer (ST)
Thiruvallur Assessment Circle,
Nazarethpettai 600 123.

<u>SENTHILKUMAR RAMAMOORTHY, J.</u>

jv

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