IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.14988 of 2024 and
W.M.P.Nos.16284 & 16285 of 2024

M/s.M.S.Hydraulics and Spares,
Represented by its Proprietor,
Mr.Jaheer Hussain
No.172, G.N.T.Road, Madhavaram
Tiruvallur 600 110. ... Petitioner

Versus

The Assistant Commissioner (ST)(FAC),
Integrated Commercial Taxes Building,
Chennai-600 003. ...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 on the file of the Respondent and to quash the impugned order dated 22.12.2023 bearing NO.33AQKPJ3807C1Z9/2017-18 passed by the Respondent as arbitrary.

For Petitioner : Mr. J.Ashish

For Respondent : Mrs. KV. Prashanth Kiran,
Government Advocate (Taxes)

ORDER

An order dated 22.12.2023 is challenged in this writ petition on the ground that a reasonable opportunity was not provided to the petitioner.

2. By asserting that the show cause notice was not in accordance with Rule 26 of the Tamil Nadu Goods and Services Tax Rules, 2017, the present writ petition was filed. On account of not being aware of proceedings, the petitioner states that he could not participate in the proceedings.

3. Learned counsel for the petitioner submits, on instructions, that the petitioner agrees to remit 10% of the disputed tax demand. He also points out that a notice dated 14.12.2023 was issued by stating that the petitioner had requested for an adjournment. However, he states that the petitioner did not file a reply to the show cause notice.

4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She submits that principles of natural justice were complied with by issuing a show cause notice dated 10.07.2023 and

reminders dated 28.08.2023, 05.09.2023 and 28.10.2023.

5. On examining the impugned order, it appears that the tax proposal related to the mismatch between the petitioner's GSTR 1 statement and GSTR 3B returns. Such tax proposal was confirmed on the basis that the petitioner did not reply to the show cause notice. In light of the assertion that the petitioner was unaware of proceedings, the interest of justice warrants reconsideration by putting the petitioner on terms.

6. For reasons set out above, the impugned order dated 22.12.2023 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 said period, the petitioner is permitted to submit a reply to the show cause notice. On 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.

7. W.P.No.14988 of 2024 is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

14.06.2024

Index : Yes /No

Speaking Order : Yes /No

Neutral Case Citation : Yes /No

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To

The Assistant Commissioner (ST)(FAC),
Integrated Commercial Taxes Building,
Chennai-600 003.

SENTHILKUMAR RAMAMOORTHY,J.

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