IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15070 of 2024
and WMP Nos.16379 and 16380 of 2024

TVL. Dolphin Chemicals,
(Rep. by its Proprietor
Mr.Harish Chander Chitkara),
No.43, 44, Nehru Nagar,
OMR Road, Kottivakkam,
Chennai 600 041. ..Petitioner

Vs.

1. State Tax Officer,
   (also known as Commercial Tax Officer),
   Sholinganallur Assessment Circle.

2. Deputy Commissioner (ST),
   South – III, Chennai 600 035.

3. The Branch Manager,
   Indian Overseas Bank,
   90, Peters Road, Royapettah,
   Chennai 600 001. ... Respondents

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 first respondent herein in his proceedings in FORM GST DRC -07 with Reference No.: ZD3309230507773 dated 09.09.2023 along with detailed proceeding in 33AAAPH1793B1ZB/2017-18 dated 09.09.2023 for the tax period 2017-18 and quash the same.

For Petitioner : Mr.M.Rajkumar
for Mr.T.Suresh

For Respondents : Mrs.K.Vasanthamala
Government Advocate (T), for RR 1 & 2

ORDER

An order dated 09.09.2023 is challenged on the ground of breach of principles of natural justice. The petitioner states that the impugned proceedings relate to the assessment period 2017-2018, which is the first year of implementation of GST laws. On account of being unaware of the procedures relating to filing of returns, the petitioner asserts that an inadvertent error was committed while filling up the GSTR 3B return. Instead of filling up the details in column relating to "all other ITC", the petitioner inadvertently filled up the column relating to RCM.

2. Learned counsel for the petitioner submits that the above error was committed inadvertently and that this was brought to the notice of the first and second respondents by reply dated 24.01.2024. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mrs.K.Vasanthamala, learned Government Advocate (T), accepts notice for the first and second respondents. She points out that an intimation dated 08.07.2023 and a show cause notice dated 20.07.2023 were issued to the petitioner. Therefore, she submits that principles of natural justice were complied with.

4. The petitioner's reply is subsequent to the impugned order. In the impugned order, it is recorded that the petitioner failed to reply to the show cause notice or utilize the personal hearing opportunity offered by the first respondent. The tax proposal was confirmed in those circumstances. On perusal of the impugned order, it is also clear that the confirmed tax proposal relates to the entries made by the petitioner in the RCM column of the GSTR 3B return. By taking into account the fact that the petitioner asserts that this happened on account of an inadvertent error in filling up the "RCM" column instead of the "all other ITC" column, the interest of justice warrants that the petitioner be provided an opportunity by putting the petitioner on terms.

5. Therefore, the impugned order dated 09.09.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand as agreed to 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. Upon receipt of the petitioner's reply and upon 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. In view 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:-

1. State Tax Officer,
   (also known as Commercial Tax Officer),
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2. Deputy Commissioner (ST),
   South – III, Chennai 600 035.

3. The Branch Manager,
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SENTHILKUMAR RAMAMOORTHY, J.

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