IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15276 of 2024
and
W.M.P.Nos.16606 and 16607 of 2024

M/s.Vignesh Binding Works
Represented by its Proprietor
Mr.Palani Paramanandam ... Petitioner

Versus

The State Tax Officer/Commercial Tax Officer
Avadi Assessment Circle
No.32, Integrated Commercial Taxes Building
Elephant Gate Bridge Road
Vepery, Chennai - 600 003 ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari to call for the impugned proceedings of the respondent in GSTIN:33AAPPP8112M1ZA/2017-2018 dated 30.12.2023 and the summary of the order in Form GST DRC-07 dated 30.12.2023 in Reference No.ZD3312232829590 and quash the same as passed contrary to the provisions of the CGST Act, 2017 and TNGST Act, 2017 and against the principles of natural justice.

For Petitioner : Mr.P.Rajkumar
For Respondent : Mr.C.Harsha Raj
Additional Government Pleader (Tax)

ORDER

An assessment order dated 30.12.2023 is challenged on the ground of breach of principles of natural justice.

2. By asserting that the show cause notice and the impugned order were uploaded on the GST portal, but not communicated to the petitioner through any other mode, the present writ petition was filed.

3. The petitioner asserts that a tax consultant was engaged for GST compliances and that the show cause notice was not brought to the notice of the petitioner.

4. Learned counsel for the petitioner points out that the tax proposal related to a mismatch between the petitioner's GSTR-3B returns and the GSTR-1 statement. He further submits that the show cause notice was issued by Mr. Jacob Stephen Paul and not by the officer who issued the impugned order. He further submits that the personal hearing notice was also not issued by the officer who issued the impugned order. On instructions, he submits that the petitioner agrees to remit 10% of the

disputed tax demand as a condition for remand.

5. Mr. C. Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He points out that the principles of natural justice were complied with by issuing Form ASMT-10 on 17.05.2023, show cause notice dated 25.08.2023 and at least two reminder notices.

6. The impugned order discloses that the tax proposal was confirmed because the petitioner did not respond to the show cause notice or utilize the opportunity of participating in personal hearings. Since the petitioner asserts that such participation was not possible on account of not being aware of the proceedings, the interest of justice warrants that the petitioner be provided an opportunity, albeit by putting the petitioner on terms.

7. For reasons set out above, the impugned order dated 30.12.2023 is set aside subject to the condition that the petitioner remits 10% of the disputed tax demand, within 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 thereof 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 three months from the date of receipt of the petitioner's reply.

8. The writ petition is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

20.06.2024

Index :No
Speaking
Neutral Case Citation : No

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To

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SENTHILKUMAR RAMAMOORTHY,J

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