IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.14919 of 2024 and
W.M.P.Nos.16186 & 16189 of 2024

Ms/s.Gem Equipments Private Limited,
Rep. By its Managing Director,
SF # 103, Avinashi Road,
Arasur, Coimbatore,
Tamil Nadu:641 407 ... Petitioner

Versus

The Assistant Commissioner (ST),
Peelamedu (South), Coimbatore-III,
Coimbatore,
Tamil Nadu. ...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 of the impugned assessment order in ZD331223228351 dated 27.12.2023 under Section 73 of the CGST/TNGST Act, 2017 uploaded along with the summary of order in DRC 07 for tax period 2017-18 from the files of the respondent herein and quash the same.

For Petitioner : Mrs. Aparna Nandakumar

For Respondent : Mr. C. Harsha Raj
Addl. Govt. Pleader (T)

ORDER

An order in original dated 27.12.2023 is assailed on the ground of breach of principles of natural justice.

2. By asserting that the impugned order and notices preceding such order were uploaded on the "View Additional Notices and Orders" tab on the GST portal and not communicated to the petitioner through any other mode, the present writ petition was filed.

3. Learned counsel for the petitioner submits that the confirmed tax proposals pertain to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A as also between the petitioner's GSTR 1 statement and GSTR 3B returns. As regards each issue dealt with in the impugned order, learned counsel submits that the petitioner would be in a position to satisfactorily explain the mismatch if provided an opportunity. On instructions, she submits that the petitioner would remit 10% of the disputed tax demand as a condition for remand.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. By referring to the impugned order, he submits that principles of natural justice were complied with by issuing an intimation, show cause notice and reminder.

5. On examining the impugned order, it is evident that each tax proposal dealt with therein was confirmed because the petitioner did not file a reply to the show cause notice. Since it is asserted that the petitioner could not participate in proceedings because of being unaware of proceedings, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits after putting the petitioner on terms.

6. Therefore, the impugned order dated 27.12.2023 is set aside on 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 of such 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 three months from the date of receipt of the petitioner's reply. As a consequence of the assessment order being set aside, the bank attachment and any garnishee order shall also stand raised.

7. W.P.No.14919 of 2024 is disposed of on the above terms without any order as to costs. Consequently, W.M.P.Nos.16186 & 16189 of 2024 are closed. No costs.

12.06.2024

Index : Yes /No

Speaking Order : Yes /No

Neutral Case Citation : Yes /No

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To

The Assistant Commissioner (ST),
Peelamedu (South), Coimbatore-III,
Coimbatore,
Tamil Nadu.

SENTHILKUMAR RAMAMOORTHY,J.

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