IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15316 of 2024
and
W.M.P.Nos.16644 and 16645 of 2024

Tvl.Samikannu Mariappan ... Petitioner

Versus

1. The State Tax Officer (ST)
Saligramam Assessment Circle
Station No.15 & 16, 100 Feet Road
Malligai Avenue, Chennai - 600 099

2. The Assistant Commissioner (ST)
Saligramam Assessment Circle
Station No.15 & 16, 100 Feet Road
Malligai Avenue, Chennai - 600 099 ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari calling for the records of the first respondent passed in GSTIN/33AAQPM1720R1ZA/2019-20 dated 21.04.2023 and consequential Form GST DRC-07 in Reference No.ZD330423098838X dated 21.04.2023-May 2019 and quashing the same as *void ab initio*, without jurisdiction, arbitrary, and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India.

For Petitioner : Mrs. P.Jayalakshmi

For Respondent : Mr. V. Prashanth Kiran,
Government Advocate (Taxes)

ORDER

An order in original dated 21.04.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. By asserting that the petitioner had entrusted GST compliances to a local auditor and that the petitioner was unaware of these proceedings until he received a recovery letter dated 07.02.2024, the present writ petition was filed.

3. Learned counsel for the petitioner refers to the recovery letter dated 07.02.2024 and submits that the petitioner is an octogenarian and was unaware of these proceedings. She further submits that the petitioner's turnover is below the prescribed threshold for GST compliances. If provided an opportunity, learned counsel submits that the petitioner would be in a position to establish that the tax proposal is liable to be dropped. On instructions, she submit that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr. V. Prashanth Kiran, learned Government Advocate, accepts notice for the respondents. He points out that principles of natural justice were complied with by issuing intimation dated 03.08.2022, show cause notice dated 18.11.2022 and by offering a personal hearing.

5. On examining the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not respond to the show cause notice or appear at the personal hearing. Since the petitioner was not heard before the order was issued and the petitioner asserts that he was unaware of proceedings, the interest of justice warrants reconsideration albeit by putting the petitioner on terms.

6. For reasons set out above, the impugned order dated 21.04.2023 is set aside and the matter is remanded to the respondent for reconsideration 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 such period, the petitioner is permitted to reply to the show cause notice. On receipt of such reply and on being satisfied that 10% of the disputed tax demand was received, the first 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 a copy of the petitioner's reply.

7. The Writ Petition is disposed of on the above terms without any 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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SENTHILKUMAR RAMAMOORTHY,J

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