IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15373 of 2024
and
W.M.P.Nos.16703 and 16705 of 2024

Unipel Corporation
Represented by its Partner Mr.Umachandar ... Petitioner

Versus

The Assistant Commissioner (ST),
Pallavaram Assessment Circle,
Room No.313, III Floor,
Integrated Registration and Commercial Taxes Building,
Nandanam,
Chennai - 600 035. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari to call for the records the respondent in DRC-07 Reference Number ZD331223109147V/2017-18 dated 15.12.2023 and quash the same as arbitrary, illegal.

For Petitioner : Ms. V. Vijayalakshmi

For Respondent : Mr. T.N.C. Kaushik,
Additional Government Pleader (Tax)

ORDER

An order dated 15.12.2023 is assailed on the ground of breach of principles of natural justice.

2. The petitioner asserts that he was unaware of the proceedings culminating in the impugned assessment order until a phone call was received from the respondent. The present writ petition was filed in the said facts and circumstances.

3. Learned counsel for the petitioner submits that the tax proposal relates to a mismatch between the petitioner's GSTR-3B returns and the auto-populated GSTR-2A. She also submits that the mismatch was on account of the value of certain imports not being reflected in the auto-populated GSTR-2A. If provided an opportunity, she submits that the petitioner would be in a position to establish that only eligible Input Tax Credit ("*ITC")* was availed of. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr. T.N.C. Kaushik, learned Government Advocate, accepts notice for the respondent. By referring to the impugned assessment order, he points out that principles of natural justice were complied with by issuing show cause notice dated 27.09.2023 and reminders dated 14.11.2023 & 21.11.2023.

5. On examining the impugned order, it is evident that the tax proposal relates to a mismatch between the petitioner 's GSTR-3B returns and the auto-populated GSTR 2A. It is also clear that the tax proposal was confirmed because the petitioner did not reply to the show cause notice or attend the personal hearing. By taking into account the assertion that the petitioner could not attend the proceedings on account of being unaware of the same, the interest of justice warrants reconsideration albeit by putting the petitioner on terms.

6. For reasons aforesaid, the impugned order dated 15.12.2023 is set aside and the matter is remanded to the first 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 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.

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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To

The Assistant Commissioner (ST),
Pallavaram Assessment Circle,
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SENTHILKUMAR RAMAMOORTHY,J

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