IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15792 of 2024
&
WMP Nos.17209 & 17210 of 2024

Palkani & Co.
Represented by its Partner
Kumaravelan
16/31, 1st Kandappa Chetty Street,
1st Kandappa Chetty Street,
Kothawal Bazzar, Chennai-600 001. ... Petitioner

Versus

1. The State Tax Officer,
Loansquare Assessment Circle,
Integrated Commercial and Registration Building,
Chennai North Division,
No.32, Elephant Gate Bridge Road,
(Wall Tax Road), Vepery, Chennai-600 003.

2. The State Tax Officer,
Loansquare Assessment Circle,
Integrated Commercial and Registration Building,
Chennai North Division,

No.32, Elephant Gate Bridge Road,
(Wall Tax Road), Vepery,
Chennai-600 003. ...Respondents

Prayer : A Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent passed in GSTIN No.33AAGFP7721H1ZA/2018-19 dated 23.02.2024 quash the same, and direct the 2nd respondent to consider the detailed objections filed before the 1st respondent copy of the same has been handed over at the time of personal hearing on 23.03.2024 and pass orders.

For Petitioner : Mr.R.Kumar

For Respondents : Mr.T.N.C.Kaushik
Addl. Govt. Pleader

ORDER

An order dated 23.02.2024 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. Upon receipt of a notice in Form ASMT 10 dated

17.05.2023, the petitioner filed a reply dated 04.09.2023. Thereafter, pursuant to show cause notice dated 27.12.2023, the order impugned herein was issued.

3. Learned counsel for the petitioner refers to the reply dated 04.09.2023 and points out that the said reply refers to attached documents. He further submits that show cause notices were issued thereafter by the second respondent and the first respondent and that such proceedings were subsequently dropped. As regards proceedings culminating in the impugned order, learned counsel points out that the petitioner submitted a reply dated 21.02.2024 stating that the documents were previously uploaded as attachments to the reply in Form GST ASMT 11. He further submits that a personal hearing was provided at 3.00 p.m. on 23.02.2024 when such documents were submitted and that the impugned order was issued on the same

date without taking such documents into consideration.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, appears on behalf of the respondents. He points out that the petitioner replied to the notice in Form ASMT 10 but failed to reply to the show cause notice. He also submits that the petitioner failed to submit supporting documents.

5. The reply in Form GST ASMT 11 dated 04.09.2023 indicates *prima facie* that documents were attached thereto. It is not possible to discern from the reply as to which documents were attached. On perusal of the impugned order, it is evident that there was a personal hearing on the same date when the impugned order was issued. The assessing officer records in the impugned order that the petitioner did not submit supporting documents. Learned counsel for the petitioner contends,

however, that supporting documents were submitted. He also submits that such documents are available with the petitioner. In these circumstances, the interest of justice warrants reconsideration by putting the petitioner on terms. On instructions, the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

6. In the facts and circumstances outlined above, the impugned order dated 23.02.2023 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 additional documents, if any. Upon receipt thereof and on being satisfied that 10% of the disputed tax demand was received, the second 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. W.P.No.15792 of 2024 is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

25.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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To

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SENTHILKUMAR RAMAMOORTHY,J

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