IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15810 of 2024
&
WMP Nos.17231 & 17235 of 2024

M/s.Promatrix Systems,
Represented by its Partner
Mr.S.Suriya Narayanan,
No.38/2, Venkatachala Street,
Shenoy Nagar,
Chennai-600 030. ... Petitioner

Versus

1. The Assistant Commissioner (S.T.),
   Amaindakarai Assessment Circle,
   No.F-50, 2nd Floor, 1st Avenue,
   Anna Nagar East, Chennai-600 102.

2. The Deputy State Tax Officer-I,
   Amaindakarai Assessment Circle,
   No.F-50, 2nd Floor, 1st Avenue,
   Anna Nagar East, Chennai-600 102. ...Respondents

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 in the order passed by the 2nd Respondent in the impugned order dt. 27.12.2023 in GSTIN/33AAOFP6098B1Z2/2017-2018 and Summary of the order in Form DRC-07 in Ref.No.ZD331223223683Q dt.27.12.2023 and quash the orders as arbitrary and illegal.

For Petitioner	:	Mr.A.Thirumaran
For Respondents	:	Mrs.K.Vasanthamala Government Advocate

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. A show cause notice dated 24.03.2023 was issued to the petitioner in respect of mismatch between the petitioner's GSTR 1 statement and the GSTR-3B returns. The petitioner replied thereto

on 19.04.2023. By asserting that the said show cause notice was served on the petitioner through email, whereas the subsequent reminders and the impugned order were merely uploaded on the portal, the present writ petition was filed.

3. Learned counsel for the petitioner submits that the show cause notice was issued by the first respondent and that the same was replied to by the petitioner. Since the subsequent communications and the impugned order were uploaded on the GST portal, but not communicated to the petitioner through any other mode, learned counsel for the petitioner submits that the petitioner was denied a reasonable opportunity. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondents. By referring to paragraph 5 of

the affidavit in support of the writ petition, she submits that the petitioner admits that the same turnover was reported not only by the petitioner but also by the petitioner's sister concern called M/s.Proactive Systems. In such situation, she submits that the recipient of goods from these two entities would have availed of input tax credit (ITC). In the absence of any credit notes being issued by he petitioner, she submits that the tax authority was constrained to confirm the tax proposal.

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 GSTR-1 statement. The petitioner asserts that this was on account of an erroneous double reporting of turnover both by the petitioner and its sister concern M/s.Proactive Systems. In these facts and circumstances, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits, albeit by putting the petitioner on terms.

6. For reasons set out above, 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 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 0 the petitioner's reply.

7. W.P.No.15810 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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