IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16058 of 2024
and
W.M.P. No.17568 of 2024

Novateur Electrical and Digital Systems Private Ltd.,
Rep. by its Authorised Signatory,
Mr. Jayakar Samuel. ... Petitioner

Versus

1.The Assistant Commissioner (ST),
Annasalai Assessment Circle,
No.1 Greams Road, PAPMJ Annexure Building, 5th Floor,
Thousand Lights, Chennai – 6.

2.The Assistant Commissioner (ST),
Saidapet Assessment Circle,
No.1 Greams Road, PAPMJ Annexure Building, 5th Floor,
Thousand Lights, Chennai – 6.

3.The Commissioner of Commercial Taxes,
Ezhilagam, Chennai – 5. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari, to call for records relating to impugned assessment order No.TIN/33820641441/2016-17 dated 17.05.2024 passed by the first respondent and quash the same.

For Petitioner : Mr. Raghavan Ramabadran,
for M/s. Lakshmi Kumaran and Sridharan Attorneys

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

ORDER

An assessment order dated 17.05.2024 is challenged primarily on the basis that the petitioner issued pre-assessment notice dated 20.04.2023 and thereafter withdrew such notice by subsequent notice dated 15.05.2023. The assessment order dated 20.09.2019 was issued by the first respondent. Such assessment order was challenged in W.P.Nos.4376, 4379,4382 and 4385 of 2023. The said writ petitions were disposed of by order dated 16.02.2023 by directing the parties to treat the order impugned in W.P.No.4385 of 2023 as a show cause notice and by permitting the petitioner to reply thereto. After such order was issued, the petitioner issued a pre-assessment notice dated 29.04.2023. Subsequently, by notice dated 15.05.2023, the pre-assessment notice was withdrawn and the petitioner was informed that a fresh notice would be issued. Since the order impugned herein was issued without issuing such fresh notice, the present writ petition was filed.

2. Learned counsel for the petitioner referred to the pre-assessment notice and notice dated 15.05.2023 and contended that, without issuing a fresh notice, the impugned assessment order was issued. Therefore, he submits that interference with the said order is warranted.

3. Mr. T.N.C. Kaushik, learned Additional Government Pleader, accepts notice on behalf of the respondents. He submits that the pre-assessment notice was withdrawn upon realising that the earlier order of this Court directed the parties to treat the order impugned in W.P.No.4385 of 2023 as a show cause notice.

4. On examining the notice dated 15.05.2023, it is evident that the petitioner was informed that a fresh notice would be issued. In other words, the respondents did not state that the notice was being withdrawn in view of this Court's order and that further proceedings would be in terms of this Court's order. In such circumstances, the petitioner was awaiting a fresh notice and instead received the impugned assessment order. Therefore, the impugned assessment order cannot be sustained.

5. Since the earlier order of this Court directed that the order impugned in W.P.No.4835 of 2023 be treated as a show cause notice, the parties are under an obligation to act in terms thereof. Towards such end, the respondents shall provide a personal hearing opportunity to the petitioner and, thereafter, issue a fresh order.

6. For reasons aforesaid, W.P.No.16058 of 2024 is disposed of by setting aside the impugned assessment order dated 17.05.2024 and directing the first respondent to issue a fresh order after providing a reasonable opportunity to the petitioner, including a personal hearing. Such fresh order shall be issued within three months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is also closed.

02.07.2024

Index : No
Speaking Order : Yes
Neutral Case Citation:No

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SENTHILKUMAR RAMAMOORTHY,J.

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