IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16432 of 2024
and
W.M.P. Nos.17986 & 17987 of 2024

KAIZEN CARGO MOVERS PRIVATE LIMITED,
No.468, T-1, Reshma Apartments,
MKN Road, Alandur,
Chennai-600 016. ... Petitioner

Versus

Deputy State Tax Officer-1,
Alandur Assessment Circle,
3rd Floor, Room No.352,
Integrated Building for Commercial Taxes &
Registration Department. (South Tower), 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 of the respondent herein in impugned order in GSTIN-33AAFCK0184R1Z6/ 2018-19 dated 30.04.2024 and the consequential DRC 07 passed in Ref.No.ZD330424253072U dated 30.04.2024 and quash the same.

For Petitioner : Ms.G.Vardini Karthik

For Respondent : Mr.G.Manimaran,
Special Government Pleader

ORDER

An order dated 30.04.2024 is challenged on the ground of breach of principles of natural justice and non-issuance of notice in Form ASMT-10.

2. Upon receipt of show cause notice dated 27.12.2023, by reply dated 07.02.2024, the petitioner requested for further time to reply by citing the ill-health of the petitioner's auditor. The petitioner asserts that a further reply dated 05.04.2024 was submitted on the merits of the tax proposal. The impugned order was issued in these facts and circumstances.

3. Learned counsel for the petitioner submits that the impugned order is vitiated by non-issuance of notice in Form ASMT-10 in spite of the fact that the tax proposal relates to and arises out of scrutiny of returns. Since there is no acknowledgment with regard to the reply dated 05.04.2024, without prejudice to the above submissions, learned counsel

submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr. G. Nanmaran, learned Special Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing show cause notice dated 27.12.2023 and by issuing multiple reminders in respect of personal hearing. He further submits that the reply dated 05.04.2024 was not received.

5. On examining the impugned order, it is noticeable that such order refers to the petitioner's reply dated 08.02.2024 requesting for time to reply. It is also evident that the tax proposal was confirmed on the basis that the petitioner did not file a reply after seeking time to do so. Since the order was issued without the petitioner being heard, the interest of justice warrants reconsideration subject to the petitioner being put on terms.

6. For reasons aforesaid, the impugned order dated 30.04.2024 is set aside and the matter is remanded for reconsideration subject to the condition that the petitioner remits 10% of the disputed tax demand as

agreed to within 15 days from the date of receipt of a copy of this order. Within the aforesaid period, the petitioner is also 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. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

05.07.2024

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

klt

To

The Deputy State Tax Officer-1,
Alandur Assessment Circle,
3rd Floor, Room No.352,
Integrated Building for Commercial Taxes &
Registration Department. (South Tower), Nandanam,
Chennai-600 035.

SENTHILKUMAR RAMAMOORTHY,J.

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