IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16421 of 2024
and
W.M.P. Nos.17975 & 17976 of 2024

M/s. The Star Engine Re-boring,
Rep. by its Proprietor,
322/109, NA, Chinnasamy Naidu Road,
New Siddhapudur,
Coimbatore,
Tamil Nadu – 641 044. ... Petitioner

Versus

The Deputy Sales Tax Officer – I,
P.N.Palayam Assessment Circle,
Commercial Taxes Building,
2nd Floor, Dr. Balasundaram Road,
Coimbatore, Tamil Nadu. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari, to call for the impugned assessment order in Ref.No.ZD331223232684N dated 28.12.2023 passed under Section 73 of the CGST/TNGST Act, 2017, and uploaded along with summary of order in DRC-07, for tax period 2017-18 from the files of the respondent herein, quash the same.

For Petitioner : Ms. S. Merlin,

for Ms. Aparna Nandakumar

For Respondent : Mrs. K. Vasanthamala,
Government Advocate (Tax)

ORDER

An order in original dated 28.12.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that the show cause notice and other communications were uploaded in the "View Additional Notices and Orders" tab on the GST portal, and not communicated to the petitioner through any other mode. Consequently, the petitioner states that she was unaware of these proceedings until recently.

3. Learned counsel for the petitioner submits that the tax proposals relate to mismatches between the petitioner's GSTR 3B and GSTR 1 returns or between the petitioner's GSTR 3B and the auto-populated GSTR 2A. If provided an opportunity, learned counsel submits that the petitioner would be in a position to explain the mismatch satisfactorily. On

instructions, learned counsel 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 on behalf of the respondent. She submits that principles of natural justice were complied with by issuing notice in Form ASMT-10 dated 03.07.2023, intimation dated 04.08.2023, show cause notice dated 24.08.2023 and by offering a personal hearing.

5. On perusal of the impugned order, it is evident that the tax proposals were confirmed because the petitioner did not reply to the show cause notice. By taking into account the assertion that such non-participation was on account of not being aware of proceedings, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits by putting the petitioner on terms.

6. For reasons set out above, the impugned order dated 28.12.2023 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. The petitioner is also permitted to submit a reply to the show cause notice within the said period. 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 there 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 Sales Tax Officer – I,
P.N.Palayam Assessment Circle,
Commercial Taxes Building,
2nd Floor, Dr. Balasundaram Road,
Coimbatore, Tamil Nadu.

SENTHILKUMAR RAMAMOORTHY,J.

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