IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.18259 of 2022
and
W.M.P.No.17603 of 2022

Tvl.Anmol Rajendra Transport,
Rep by its Partner, Mr.N.Lalchand
No.17, Acharappan Street,
Chennai – 600 001. ... Petitioner

Vs.

The Additional Commissioner,
GST Chennai North,
No.26/1, Mahatma Gandhi Road,
Chennai – 600 034. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the respondent in Order-in-Original No.30/2022-CH.N(ADC) dated 25.02.2022 (received on 05.07.2022) and consequential proceedings dated 06.07.2022 and quash the same as illegal, arbitrary, barred by limitation and in violation of principles of natural justice.

For Petitioner : M/s.Rekha Kumari

For Respondent : Mr.Rajendran Raghavan
Senior Standing Counsel

ORDER

The petitioner is before this Court against the impugned Order-in-Original No.30/2022-CH.N(ADC). By the impugned order, the demand proposed in Show Cause Notice No.19/2021 dated 27.04.2021 has been confirmed. Operative portion of the impugned order reads as under:-

2. The case of the petitioner is that after the petitioner had received the aforesaid Show Cause Notice No.19/2021 dated 27.04.2021, the petitioner had also filed a reply on 19.11.2021. However, the petitioner could not file supporting documents in response to the Show Cause Notice during the period when the country was still under continuous and intermittent lockdown and there was a difficulty to the petitioner in accessing the old records. It is submitted that the Show Cause Notice has been issued only on account of the differential value between returns filed under 26AS of Income Tax and STR 3 filed by the petitioner under the Finance Act, 1994 read with Service Tax Rules, 1994.

3. The learned counsel for the petitioner submits that the petitioner has been admitting to file the documents, however, the officers concerned had not co-operated with the petitioner.

4. Specifically, the learned counsel for the petitioner would draw attention to e-mail dated 12.04.2022, wherein, it has been mentioned that the petitioner was continuously trying to call the office of the respondent for a meeting, but, one Mrs.Radha has refused to accept the documents physically. Hence, the impugned order that has been passed on 25.02.2022, which was received by the petitioner only on 05.07.2022 is liable to be quashed.

5. On the other hand, the learned Senior Standing Counsel for the respondent would submit that the impugned order is well reasoned and requires no interference.

6. That apart, it is submitted that after filing of the reply on 19.11.2021 in response to the Show Cause Notice No.19/2021 dated 27.04.2021, no documents were furnished by the petitioner. That apart, the petitioner also

failed to receive the personal hearing intimation and therefore the respondent left with no other option to pass the impugned order.

7. The learned Senior Standing Counsel for the respondent further submit that the petitioner had also appeared for personal hearing on 22.11.2021, wherein, the petitioner also agreed to furnish the documents but failed to furnish the same. It is submitted that subsequent notice issued to the petitioner were also rectified by the petitioner. Hence, the impugned order does not call for any interference.

8. Having considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondent, Court is of the view there is a violation of principles of natural justice, as the petitioner appears to have documents, but could not file the same before the impugned order was passed on 22.05.2022. It appears that the impugned order itself was communication along with the recovery notice dated 05.07.2022 and 06.07.2022.

9. Considering the above, that the impugned order is set aside and the case is remitted back to the respondent to pass a fresh order on merits as expeditiously as possible preferably within a period of three months from the date of receipt of a coy of this order. The petitioner is directed to furnish all the documents to the respondent within a period of 15 days from the date of receipt of a copy of this order. The respondent shall thereafter fix the date for personal hearing. The petitioner shall however, appear before the respondent on 20.12.2024 and thereafter further dates can be fixed before passing the final order.

10. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

19.11.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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To

The Additional Commissioner,
GST Chennai North,
No.26/1, Mahatma Gandhi Road,
Chennai – 600 034.

C.SARAVANAN, J.

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