IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16825 of 2024
and
W.M.P.Nos. 18503 & 18504 of 2024

Tvl. Parshwa Packaging Solutions,
Rep. by its Proprietor,
Mr. Jayant Pandya. ... Petitioner

Versus

The Assistant Commissioner (ST)(FAC),
Peddunaickenpet Assessment Circle,
Integrated Commercial Taxes Building,
Chennai – 7. ... 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 on the file of the respondent and to quash the impugned order dated 21.12.2023 bearing Audit Slip No.2(42), TIN/33180282699/2017-18, GSTIN No.33AKVPP2933N1ZG passed by the respondent as arbitrary.

For Petitioner : Mr. J. Ashish

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

ORDER

An order in original dated 21.12.2023 is challenged in this writ petition. The petitioner asserts that he was unaware of proceedings culminating in the impugned order because the show cause notice and other communications were uploaded in the “ View Additional Notices and Orders” tab on the GST portal but not communicated to the petitioner through any other mode. The petitioner also states that he has closed his business and, consequently, was not monitoring the portal on a regular basis.

2. Learned counsel for the petitioner submits that the show cause notice does not contain either the physical or digital signature of the officer. He also points out that the petitioner was called upon to show cause in respect of the transitional input tax credit claim of Rs.4,14,288/-, whereas the impugned order imposes liability of Rs.13,97,687/-. In order to substantiate this contention, learned counsel refers to both the summary of show cause notice and the table on the last page of the detailed notice.

3. Mrs. K. Vasanthamala, learned Government Advocate, who

appears on behalf of the respondent, points out that the detailed notice specified the total ineligible transitional credit of Rs.23,01,301/- for the period running from 01.04.2015 to 30.06.2017. She further submits that the tax proposal was confirmed with regard to a smaller amount of Rs.13,97, 687/-, and that, therefore, the petitioner was not prejudiced.

4. The admitted position is that the petitioner did not reply to the intimation or show cause notice. The petitioner has filed copies of "C-Forms" to establish the claim for transitional credit. These documents were admittedly not submitted before the assessing officer. As contended by learned counsel, on examining the detailed show cause notice and the summary thereof, there is an ambiguity with regard to the transitional credit in respect of which the petitioner was called upon to show cause. In view of such ambiguity, reconsideration is necessary in the interest of justice. Since the petitioner did not respond to the intimation or show cause, it is necessary to put the petitioner on terms. On instructions, learned counsel submits that the petitioner agrees to remit a sum of Rs.1,00,000/- as a condition for remand.

5. For reasons aforesaid, the impugned order dated 21.12.2023 is set

aside and the matter is remanded for reconsideration on condition that the petitioner remits the sum of Rs.1,00,000/- (Rupees One lakhs only) towards the disputed tax demand as agreed to within three 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 upon being satisfied that a sum of Rs.1 lakhs 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.

6. The writ petition is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

23.07.2024

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

klt

To

The Assistant Commissioner (ST)(FAC),
Peddunaickenpet Assessment Circle,
Integrated Commercial Taxes Building,
Chennai – 7.

SENTHILKUMAR RAMAMOORTHY,J.

klt

W.P.No.16825 of 2024
and
W.M.P. Nos.18503 & 18504 of 2024

23.07.2024