IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16880 of 2024
and
W.M.P. Nos.18564 & 18565 of 2024

Tvl. Vel Logistics Private Limited,
Rep. by its Manging Director Mr. S. Arunkumar. ... Petitioner

Versus

The Deputy State Tax Officer-II,
Villivakkam Assessment Circle,
15 & 16, 100 feet Road, Malligai Avenue,
Kolathur, Chennai – 99. ... 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 in the files of the respondent in GSTIN: 33AAFCV1786J1Z1/2017-18 dated 26.12.2023 and quash the same being illegal, invalid, against the law and violation of principles of natural justice.

For Petitioner : Mr. D. Vijayakumar

For Respondent : Mr. V. Prashanth Kiran,
Government Advocate (Tax)

ORDER

An order in original dated 26.12.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax proposal on merits.

2. The petitioner asserts that the show cause notice and other communications were merely uploaded on the GST portal but not served on the petitioner through any other mode. The petitioner further states that the confirmed tax proposal pertains to a mismatch between the petitioner's GSTR 3B returns and Form 26AS.

3. Learned counsel for the petitioner submits that the petitioner had filed a reconciliation statement in Form GSTR 9C and that if the said statement had been examined, the assessing officer would have been convinced that the returns of the petitioner were in order. Since the petitioner was not heard before such order was passed, he seeks another opportunity.

4. Mr. V. Prashanth Kiran, learned Government Advocate, accepts notice on behalf of the respondent. He points out that principles of natural

justice were complied with not only by uploading the ASMT-10 notice, the show cause notice and the personal hearing notice on the GST portal, but also by communicating to the petitioner that the above documents had been uploaded on the portal by way of e-mail to the registered e-mail ID of the petitioner.

5. On examining the impugned order, it is evident that the respondent had also sent e-mails to the petitioner after uploading the notice in Form ASMT-10, the show cause notice and the reminder notice on the portal. In these circumstances, as a registered person, the petitioner cannot be absolved of responsibility. Nonetheless, it is noticeable that the tax proposal was confirmed because the petitioner did not reply to the show cause notice or participate in proceedings. The petitioner submits that the reconciliation statement was not examined. These facts and circumstances justify a remand subject to putting the petitioner on terms. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit a sum of Rs.3,50,000/- (Rupees Three lakhs Fifty thousand only) as a condition for remand. This amount is in excess of 10% of the disputed tax demand.

6. Therefore, the impugned order dated 26.12.2023 is set aside on

condition that the petitioner remits a sum of Rs.3,50,000/- (Rupees Three lakhs Fifty thousand only) towards the disputed tax demand within four 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 the sum of Rs.3.5 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.

7. The writ petition is disposed of on the above terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

11.07.2024

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

To

The Deputy State Tax Officer-II,
Villivakkam Assessment Circle,
15 & 16, 100 feet Road, Malligai Avenue,
Kolathur, Chennai – 99.

SENTHILKUMAR RAMAMOORTHY,J.

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