IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.17148 of 2024
and
W.M.P.No.18932 of 2024

Tvl Elgi Equipments,
Rep.by its Vice President – Legal and Secretarial,
Mr. Shyam Vasudevan ... Petitioner

Versus

The Assistant Commissioner (State Tax),
Trichy Road Assessment Circle,
Coimbatore. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari, to call for records from the files of the Respondent herein in TIN 33951880011/2012 2013 dated 08.03.2024, quash the same.

For Petitioner : Mr. K. A. Parthasarathy

For Respondents : Mr. T.N.C. Kaushik,
Additional Government Pleader(Tax)

ORDER

An order dated 08.03.2024 is challenged primarily on the ground of breach of principles of natural justice.

2. The petitioner received a show cause notice dated 20.11.2021 from the then incumbent Assistant Commissioner. After the lapse of about 2 ½ years, the order impugned herein was issued on 08.03.2024 by a different officer, namely, Thiru. P. Saravanakumar.

3. Learned counsel for the petitioner submits that the impugned order is vitiated for multiple reasons. His first contention is that the order was issued after the gap of 2 ½ of years without offering a personal hearing to the petitioner. The second contention is that the show cause notice was issued by one officer and the impugned order by another. On merits, learned counsel submits that the issue involved is whether the benefit of amendment to Section 19(2)(v) of the Tamil Nadu Value Added Tax, 2006 is available to the petitioner on account of such amendment being applicable retrospectively. He contends that this question was answered in favour of the assessee in a batch of writ petitions, wherein the lead case is

W.P.No.15103 of 2015. He also submits that the order was affirmed in this respect by the Division Bench of this Court.

4. Mr. T.N.C. Kaushik, learned Additional Government Pleader, accepts notice on behalf of the respondent. He submits that the petitioner failed to respond to the show cause notices dated 13.06.2017 and 20.11.2021. On the legal issue, he submits that a Special Leave Petition was filed by the petitioner before the Hon'ble Supreme Court of India, and that an order of status quo was issued. Without prejudice, he submits that the matter may be remanded for reconsideration because a personal hearing was not provided.

5. The impugned order was issued on 08.03.2024. Even from the references set out therein, it is evident that the preceding notice was issued on 20.11.2021. Despite the lapse of more than 2 ½ years, the admitted position is that no personal hearing was granted and an order adverse to the tax payer was issued. In these facts and circumstances, breach of principles of natural justice warrant reconsideration.

6. For reasons aforesaid, the impugned order dated 08.03.2024 is set aside and the matter is remanded for reconsideration The petitioner is permitted to submit a reply to the show cause notice within the aforesaid period. Upon receipt thereof the assessing officer 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 petition is also closed.

15.07.2024

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

klt

To

The Assistant Commissioner (State Tax),
Trichy Road Assessment Circle,
Coimbatore.

SENTHILKUMAR RAMAMOORTHY,J.

klt

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