IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.17549 of 2024
&
WMP Nos.19331, 19332 & 19335 of 2024

Tvl.G.Satish Enterprises,
(Represented by its Proprietor
Mr.Garrepalli Satish),
20, Ground Floor, E V R Street,
Avadi, Chennai, Tiruvallur Dist,
Tamil Nadu-600 072. ... Petitioner

Versus

1. The Assistant Commissioner (ST),
   Avadi Assessment Circle,
   Integrated Commercial Taxes
   Building (North Division),
   First Floor, Room No.124,
   No.32, Elephant Gate Bridge Road,
   Vepery, Chennai-600 003.

2. The Branch Manager,
   Federal Bank,
   1st Floor, Vasavi Towers,
   1-1-40/1, Opp. Manju Theatre,
   Secunderabad-500 003. ...Respondents

Prayer : A 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 files of the 1st Respondent herein in Form GST DRC-07 with Reference No.:ZD33122327548M dated 30.12.2023 along with detailed order in GSTIN:33AEKPG4001M1ZS/2017-18 dated 30.12.2023, for the assessment period 2017-18 and quash the same.

For Petitioner : Mr.B.Syed Abdul Wajed

For Respondents : Mr.T.N.C.Kaushik
Addl. Govt. Pleader for R1

ORDER

An order dated 30.12.2023 is challenged in this writ petition.

2. The petitioner carries on business in multiple States such as Telangana, Andhra Pradesh, Karnataka, Chhattisgarh and the State of Tamil Nadu. According to the petitioner, no business was carried on in the State of Tamil Nadu during the assessment period 2017-18. Consequently, the petitioner asserts that 'nil' returns were filed. Upon receipt of notice in Form ASMT-10 and show cause notice dated 08.08.2023, by reply dated 29.08.2023, the petitioner provided copies of documents called for in the notice in ASMT-10. The impugned order was issued in these facts and

circumstances.

3. Learned counsel for the petitioner submits that the petitioner had filed the GSTR 3B and GSTR 1 returns for assessment period 2017-18 showing 'nil' returns because there was no business in Tamil Nadu. He further submits that all the documents called for in the notice in Form ASMT-10 were submitted by the petitioner. In those circumstances, learned counsel submits that the respondent imposed tax liability on the petitioner by treating the entire outward supply of the petitioner on pan-India basis as attributable to supplies made in the State of Tamil Nadu. He further submits that the entire confirmed tax demand was recovered pursuant to the impugned order. In order to substantiate the contention that the turnover reflected in the financial statement of the petitioner and in Form 26AS corresponds to turnover accruing from business carried on in other States, he submits that the GST returns filed by the petitioner as a registered person in those States are available.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the first respondent. He submits that

the petitioner failed to submit material documents such as the trial balance with regard to Tamil Nadu, certificates from the Chartered Accountant with regard to the turnover in Tamil Nadu and GST returns relating to other States. In those circumstances, he submits that the assessing officer was constrained to treat the pan-India turnover as the turnover from Tamil Nadu.

5. In the affidavit in support of the writ petition, the petitioner asserts that he is a registered person under applicable GST statutes not only in the State of Tamil Nadu but also the States of Telangana, Andhra Pradesh, Karnataka and Chhattisgarh. The financial statements of the petitioner have also been placed on record. These statements appear *prima facie* to have been prepared on pan-India basis. The petitioner should have placed on record documents, such as the trial balance for Tamil Nadu, certificates from a Chartered Accountant and GST returns filed in other States, to substantiate the contention that there was no outward supply in Tamil Nadu during the relevant assessment period.

6. At this juncture, the entire tax demand was appropriated pursuant to the impugned order. Therefore, revenue interest stands fully secured. In these circumstances, by taking into account the assertion that the petitioner is in possession of GST returns for other States and that these documents would corroborate that the outward supply related to those States, the interest of justice warrants reconsideration.

7. Therefore, the impugned order dated 30.12.2023 is set aside and the matter is remanded for reconsideration. After providing a reasonable opportunity to the petitioner, including a personal hearing, the first respondent is directed to issue a fresh order within three months from the date of receipt of a copy of this order. In view of the assessment order being set aside, the bank attachment is raised.

8. W.P.No.17549 of 2024 is disposed of on the above terms. Consequently, WMP Nos.WMP Nos.19331, 19332 & 19335 of 2024 are closed. No costs.

03.07.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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To

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