IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.17713 of 2024
&
WMP Nos.19465 & 19466 of 2024

Tvl.M.Krishna Moorthy Works Contract
Represented by Proprietor
M.Krishnamoorthy,
No.3/69-I, Akkarai Street,
Manampettai,
Seshamoolai-609 802. ... Petitioner

Versus

1. The State Tax Officer,
   Roving Squad-I,
   Thiruvarur.

2. The State Tax Officer,
   Nannilam Assessment Circle,
   Nannilam.

3. The Branch Manager,
   Indian Overseas Bank
   North Pattakal Street,

Thittacherry-609 703. ...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 in Order passed by the Respondent vide Impugned Order No.GSTIN33BMLPK0202J1ZG/2017-18 dated 24.01.2024 and seeking to quash of the same as arbitrary along with the DRC-07 Order under Sec 74, Ref No.ZD330124120177Y dated 25.01.2024 issued by the 1st Respondent and consequential Bank attachment /recovery notice in Form GST DRC-13 No.GSTIN 33BMLPK0202J1ZG/2024/A2 dated 31.05.2024 issued by the 2nd Respondent to the 3rd Respondent and quash the same is arbitrary.

For Petitioner : Mr.M.Narasimha Bharathi

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

ORDER

An order in original dated 24.01.2024 is challenged in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. By asserting that the show cause notice and all

communications were uploaded on the "View Additional Notices and Orders" tab on the GST portal and not communicated to the petitioner through any other mode, the present writ petition was filed.

3. Learned counsel for the petitioner submits that the petitioner was unable to participate in proceedings on account of being unaware of the same. He points out that a sum of Rs.10 lakhs was paid by the petitioner under Form GST DRC-03 on 14.06.2024. He further submits that the sum corresponds to about 20% of the disputed tax demand. He seeks another opportunity to contest the tax demand on merits. He also points out that recovery proceedings were initiated and that the immovable property of the petitioner has been attached.

4. Mr.T.N.C.Kaushik, learned Additional Government

Pleader, accepts notice for the respondents. He submits that these proceedings originate in an inspection. He also points out that principles of natural justice were complied with by issuing intimation dated 28.07.2023, show cause notice dated 27.09.2023 and by issuing notices for personal hearing.

5. On examining the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not reply to the show cause notice. By taking into account the assertion that the petitioner could not participate in view of the show cause notice and other communications being uploaded on the portal, the interest of justice warrants reconsideration. In this regard, it is pertinent to notice that the petitioner has remitted a sum of Rs.10 lakhs after the order was issued. This amount represents about 20% of the disputed tax demand and revenue interest stands secured to that extent.

6. For reasons aforesaid, the impugned order dated 24.01.2024 is set aside and the matter is remanded to the first respondent for reconsideration. The petitioner is permitted to submit a reply to the show cause notice within fifteen days from the date of receipt of a copy of this order. Upon receipt thereof, the first 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. In view of the assessment order being set aside, the attachments are raised. The first and second respondents are directed to communicate the same to the relevant Sub Registrar's Office so as to delete the entry in the encumbrance certificate.

7. W.P.No.17713 of 2024 is disposed of on the above terms. Consequently, WMP Nos.WMP Nos.19465 & 19466 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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   Roving Squad-I,
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