IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.17636 of 2024
and
W.M.P.Nos. 19409 & 19410 of 2024

P. J. Harvester Spare Parts,
Rep. by its Proprietor,
Mr. P. Jagannathan. ... Petitioner

Versus

The State Tax Officer,
Attur Town Assessment Circle,
No.44-60, Feet Road Old Post Office Building,
Gandhi Nagar, Attur - 636 102. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari, to call for the impugned order of the respondent passed in GSTIN 33AGKPJ9026H1ZD/ 2018-19 dated 30.04.2024 and quash the same.

For Petitioner : Mr. N. Murali

For Respondents : Mr. C. Harsha Raj,
Additional Government Pleader (Tax)

ORDER

An order in original dated 30.04.2024 is assailed on the ground that the petitioner's reply was not taken into consideration.

2. Proceedings were initiated against the petitioner by issuing show cause notice dated 21.09.2023. By such show cause notice, the petitioner was called upon to show cause in respect of the disproportionately low outward supply value as per the GSTR-3B returns in comparison with the petitioner's auto-populated GSTR-2A. The petitioner replied to such show cause notice on 19.12.2023 and stated that sales suppression cannot be inferred merely on account of the difference between the purchase turnover and sales turnover. The impugned order dated 30.04.2024 was issued in these facts and circumstances.

3. Learned counsel for the petitioner referred to the petitioner's reply and pointed that the petitioner set out elaborate reasons as to why the tax proposal was not sustainable. He further submits that the reply was rejected merely by stating that such reply was not satisfactory.

4. Mr. T.N.C. Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that the petitioner did not submit any supporting documents to establish that the petitioner's outward supply turnover as disclosed in the petitioner's returns, were correct and that no sales suppression was resorted to.

5. The petitioner's reply is on record. In such reply, the petitioner states that the adoption of the purchase turnover from the GSTR-2A as the basis to arrived at the outward supply turnover is not in accordance with statute. The petitioner has also pointed out that the assessing officer failed to take into account the closing stock held at the end of the financial year. The petitioner also pointed out that inspection under Section 67 of applicable GST statutes could have been resorted to arrived at the physical closing stock.

6. On examining the impugned order, the reply of the petitioner was noticed therein. Such reply was dealt with by stating that “the taxpayer reply was not satisfactory”. Thus, the impugned order is completely unreasoned and cannot be sustained.

7. For reasons aforesaid, the impugned order dated 30.04.2024 is set aside and the matter is remanded for reconsideration. The petitioner is permitted to submit additional documents within 15 days from the date of receipt of a copy of this order. Upon receipt thereof, the respondents are directed to provide a reasonable opportunity, including a personal hearing, and thereafter issue a fresh order within three months from the date of receipt of additional documents from the petitioner.

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

19.07.2024

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

klt

To

The State Tax Officer,
Attur Town Assessment Circle,
No.44-60, Feet Road Old Post Office Building,
Gandhi Nagar, Attur - 636 102.

SENTHILKUMAR RAMAMOORTHY,J.

klt

W.P.No.17636 of 2024
and
W.M.P. Nos.19409 & 19410 of 2024

19.07.2024