IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.17915 of 2024
and
W.M.P.Nos. 19653 & 19654 of 2024

M/s. Sri Vinayagar Metals,
Rep By Its Proprietor,
No.16, Ponni Amman Koil Street,
Alandur, Chennai-600016. ... Petitioner

Versus

1.The Assistant Commissioner (ST) (FAC),
Alandur Assessment Circle,
Chennai - 600 035.

2.The Branch Manager,
Karur Vysya Bank,
No.269, M.K.N. Road,
Alandur, Chennai – 16. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari, to call for the records of the first respondent in his proceedings in Ref No.ZD331223278503L, QUASH the order dated 30.12.2023 passed therein for the financial year 2017-18.

For Petitioner : Mr. P.V. Sudakar

For Respondents : Mrs. K. Vasanthamala,
Government Advocate (Tax)

ORDER

An order in original dated 30.12.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. Upon receipt of show cause notice dated 27.09.2023, by reply dated 27.10.2023, the petitioner stated that amounts due and payable towards supplies received by the petitioner were discharged by filing GSTR 3B returns. The impugned order in original was issued thereafter on 30.12.2023. The petitioner asserts that the detailed order was not uploaded on the portal and that only a summary thereof was uploaded. Until the bank attachment notice was received, the petitioner states that he was unaware of the impugned order.

3. Learned counsel for the petitioner submits that the petitioner has

all necessary documents to establish that the supplies were genuine and such supplies were paid for by the petitioner. He seeks another opportunity to contest the tax proposal on merits. He also points out that the statutory appeal was lodged by remitting 10% of the disputed tax demand. On instructions, he submits that the petitioner agrees to remit an additional 5% as a condition for remand.

4. Mrs. K. Vasanthamala, learned Government Advocate, accepts notice for the first respondent. She submits that principles of natural justice were complied with by issuing show cause notice dated 27.09.2023 and by offering a personal hearing. She also points out that the petitioner did not submit a detailed reply and failed to annex relevant documents to establish compliance with Section 16 of applicable GST statutes.

5. On examining the petitioner's reply, it is clear that the petitioner merely attached the GSTR 3B returns and stated that all taxes were paid. The petitioner was under an obligation to submit all relevant documents such as tax invoices, documents to establish movement of goods, bank

statements with regard to payments made by the petitioner and proof, if any, of payment of taxes by the supplier. It is also, however, noticeable that only the summary of the order has been uploaded and such order indicates that the tax proposal was confirmed because no reply was filed. In these circumstance, reconsideration is necessary after putting the petitioner on terms.

6. For the aforesaid reasons, impugned order dated 30.12.2023 is set aside and the matter is remanded for reconsideration on condition that the petitioner remits an additional 5% of the disputed tax demand within 15 days from the date of receipt of a copy of this order. Within the aforesaid period, the petitioner is permitted to submit an additional reply to the show cause notice by annexing all relevant documents. Upon receipt of such additional reply and upon being satisfied that 15% of the disputed tax demand, in the aggregate, was received, 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. On account of the assessment order being set aside, the bank attachment is raised.

7. 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.

25.07.2024

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

klt

To

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Chennai - 600 035.

2.The Branch Manager,
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SENTHILKUMAR RAMAMOORTHY,J.

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