IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.17919 of 2024
and
W.M.P.Nos.19655 & 19656 of 2024

Tvl. Galaxy Manufacturing,
Rep. by its Proprietor
Shajidha. ... Petitioner

Versus

The Deputy State Tax Officer,
Krishnagiri – II, Circle,
Hosur Division,
Tamil Nadu. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 20.01.2024 in Form GST DRC – 07 bearing GST No.33GOGPS6180P1Z3/2021-22 issued by the respondent along with consequential demand order dated 20.01.2024 having Reference No. ZD3301240886882 and quash the same, as arbitrary.

For Petitioner : Mr.S. Sanskar Samdaria
For Respondent : Mr. G. Nanmaran, Special Government Pleader.

ORDER

An order in original dated 20.01.2024 is assailed in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that he was unaware of proceedings culminating in the impugned order because the show cause notice and other communications were uploaded in the "View Additional Notices and Orders" tab on the GST portal, but not communicated to the petitioner through any other mode.

2. Learned counsel for the petitioner submits that the confirmed tax proposal relates to the disparity between the purchase and sales turnover. If provided an opportunity, he submits that the petitioner would be in a position to explain such disparity. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr. G. Nanmaran, learned Special Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing intimation dated 18.10.2023, show cause notice dated 19.11.2023 and by offering a personal hearing.

4. On perusal of the impugned order, it is evident that the tax proposal related to the disparity between the sales turnover and the purchase turnover. Such proposal was confirmed because the tax payer failed to file objections or attend the personal hearing. By taking into account the assertion that such non participation was on account of not being aware of proceedings, the interest of justice warrants reconsideration by putting the petitioner on terms.

5. For reasons aforesaid, the impugned order dated 20.01.2024 is set aside on condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of two weeks from the date of receipt of a copy of this order. The petitioner is permitted to submit a reply to the show cause notice within the aforesaid period. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of three months from the date of receipt of the petitioner's reply.

6. W.P.No.17919 of 2024 is disposed of on the above terms. No costs. Consequently, the connected miscellaneous petitions are also closed.

25.07.2024

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

klt

To

The Deputy State Tax Officer,
Krishnagiri – II, Circle,
Hosur Division,
Tamil Nadu.

SENTHILKUMAR RAMAMOORTHY,J

klt

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