IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.17980 of 2024
and
W.M.P.Nos. 19721 & 19722 of 2024

Parathasarathy Rajesh ... Petitioner

Versus

1.The Commercial Tax Officer,
Nanganallur, South III,
Integrated Commercial Taxes and Registration Dept.
2nd Floor, Room No.224, Anna Salai,
Nandanam, Chennai – 600 035.

2.The Assistant Commissioner (ST)(FAC),
Nanganallur, South III,
Integrated Commercial Taxes and Registration Dept.
2nd Floor, Room No.224, Anna Salai,
Nandanam, Chennai – 600 035. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorarified Mandamus, to call for the records in the file of the 1st Respondent pertaining to the impugned in Order under Section 73 and Summary of the Order in Form GST DRC-07 all dated 26.12.2023 having Reference No. ZD331223200401D in GSTIN/ID 33AGZPR9488A1ZM for the tax period July 2017 to March 2018 relating to Financial year 2017-18 and quash the same as illegal, arbitrary and in violation of principle of natural justice and also issue appropriate directions to the 2nd Respondent to raise the attachment and lien issued vide Notice dated 01.04.2024 in GSTN 33AGZPR9488A1ZM/2024.

For Petitioner : Mr. S.P. Chidambaram

For Respondents : Mr. G. Nanmaran,
Special Government Pleader

ORDER

An order in original dated 26.12.2023 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. The petitioner asserts that GST compliances were entrusted with an accountant. Since the show cause notice and other communications were uploaded in the "View Additional Notices and Orders" tab on the GST portal, and not communicated to the petitioner through any other mode, it is stated that the petitioner was unaware of proceedings.

3. Learned counsel for the petitioner submits that the confirmed tax proposal pertains to the alleged disparity between the petitioner's purchase

turnover and the sales turnover. He submits that the petitioner would be in a position to establish that the GSTR-1 and GSTR-3B returns correctly reflect the outward supplies of the petitioner. Since the petitioner was unable to participate in proceedings earlier, on instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr. G. Nanmaran, learned Special Government Pleader, accepts notice on behalf of the respondents. He submits that principles of natural justice were complied with by issuing show cause notice dated 25.09.2023 and by issuing multiple reminders for personal hearing.

5. On examining the impugned order, it is evident that the tax proposal was confirmed by assuming a gross profit of 10% on the inward supply reflected in the auto-populated GSTR-2A. Both by taking into account the basis of confirmation of the tax proposal and the assertion that the petitioner was unaware of proceedings, the interest of justice warrants reconsideration by putting the petitioner on terms.

6.Therefore, the impugned order dated 26.12.2023 is set aside and the matter is remanded to the respondent for reconsideration subject to the condition that the petitioner remits 10% 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 a reply to the show cause notice. Upon receipt thereof, 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 three months from the date of receipt of the petitioner's reply.

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.

19.07.2024

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

klt

To

1.The Commercial Tax Officer,
Nanganallur, South III,
Integrated Commercial Taxes and Registration Dept.
2nd Floor, Room No.224, Anna Salai,
Nandanam, Chennai – 600 035.

2.The Assistant Commissioner (ST)(FAC),
Nanganallur, South III,
Integrated Commercial Taxes and Registration Dept.
2nd Floor, Room No.224, Anna Salai,
Nandanam, Chennai – 600 035.

SENTHILKUMAR RAMAMOORTHY,J.

klt

W.P.No.17980 of 2024
and
W.M.P. Nos.19721 & 19722 of 2024

19.07.2024