IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.17611 of 2024
and
W.M.P.Nos.19391 & 19392 of 2024

Tvl. Sri Veerakumar Modern Rice Mill,
Rep. by its Partner
Mr. P. Balasubramaniam. ... Petitioner

Versus

The Assistant Commissioner (ST),
Kangeyam Assessment Circle,
Kangeyam, 638 701. ... Respondent

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 Respondent herein in its Impugned Order passed by the Respondent in the Order vide Form GST DRC-07 with GSTIN- 33AATFS0734N1ZQ/2017-18 dated 28.12.2023 along with Consequential Order U/s 73 with Ref. No.- ZD331223254332W dated 29.12.2023 for the Period 2017-2018 and quash the same.

For Petitioner : Mrs. R. Hemalatha

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

ORDER

An order in original dated 28.12.2023 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.

2. The petitioner asserts that he was unable to participate in proceedings because an auditor was entrusted with GST compliances and the petitioner had limited computer knowledge. The present writ petition was filed in the said facts and circumstances.

3. Learned counsel for the petitioner submits that the confirmed tax proposal pertains to a mismatch between the petitioner's GSTR-3B returns and the GSTR-1 returns. If provided an opportunity, learned counsel submits that the petitioner would be in a position to explain the mismatch satisfactorily. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr. C. Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He submits that proceedings were

initiated against the petitioner upon scrutiny of returns and by issuance of ASMT-10 notice. He also submits that by issuing a show cause notice dated 25.09.2023 and three reminder notices for a personal hearing, principles of natural justice were complied with.

5. On examining the impugned order, it is evident that the tax proposal was confirmed on account of the taxpayer not filing any objections to the show cause notice. By taking into account the assertion that non-participation was on account of being unaware of proceedings, it is just and necessary that the petitioner be provided an opportunity to contest the tax demand on merits, albeit by putting the petitioner on terms.

6. Therefore, the impugned order dated 28.12.2023 is set aside and the matter is remanded for reconsideration on condition that the petitioner remits 10% of the disputed tax demand as agreed to 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

The Assistant Commissioner (ST),
Kangeyam Assessment Circle,
Kangeyam, 638 701.

SENTHILKUMAR RAMAMOORTHY,J.

klt

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