IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.17997 of 2024
and
W.M.P.Nos. 19738 & 19739 of 2024

Tvl. Rajkham Builders Private Limited,
Rep.by its Managing Director,
Thiru. M. Arumugam. ... Petitioner

Versus

The State Tax Officer,
MMDA Colony Assessment Circle,
No.10, II Floor, Palaniappa Maligai,
Greams Road, Chennai -6. ... 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 in Reference No.ZD331223052028V dated 08.12.2023 and quash the same and consequently direct the respondent to given an opportunity of personal hearing and pass such or other orders as may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr. P. Suresh Babu

For Respondent : Mr. T.N.C. Kaushik,
Additional Government Pleader (Tax)

ORDER

An order in original dated 08.12.2023 is assailed on the ground that a reasonable opportunity was not provided to the petitioner to contest the tax demand on merits.

2. The petitioner asserts that he was unaware of proceedings culminating in the impugned order because the show cause notice and other communications were uploaded on the GST portal and not communicated to the petitioner through any other mode.

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 auto-populated GSTR-2A. If provided an opportunity, learned counsel submits that the petitioner would be in a position to establish that only eligible Input Tax Credit was claimed. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr. T.N.C. Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing intimation dated 31.10.2022, show cause notice dated 25.09.2023 and by offering a personal hearing.

5. On perusal of the impugned order, it is evident that the tax proposal was confirmed because the taxpayer failed to reply to the show cause notice. By taking into account the assertion that non-participation was on account of being unaware of proceedings, the interest of justice warrants reconsideration subject to the petitioner being put on terms.

6. For the aforesaid reasons, impugned order dated 08.12.2023 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 said period, the petitioner is permitted to submit a reply to the show cause notice. Upon receipt of such 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 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.

25.07.2024

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

klt

To

The State Tax Officer,
MMDA Colony Assessment Circle,
No.10, II Floor, Palaniappa Maligai,
Greams Road, Chennai -6.

SENTHILKUMAR RAMAMOORTHY,J.

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