IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.19588 of 2024
and
W.M.P.Nos.21452 & 21454 of 2024

M/S.Nayan Traders,
Represented by its Proprietor,
Mr. Jitendra Kumar Jain. ... Petitioner

Versus

The State Tax Officer,
Sowcarpet Assessment Circle,
Room No.302, 3rd Floor, Wall Tax Road,
Chennai – 3. ... 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 Order dated 13/02/2024 in GSTN 33AADPJ8224G1Z0/ 2018-19 and quash the same as illegal, arbitrary and in violation of principle of natural justice.

For Petitioner : Ms. C. Rekhakumari

For Respondent : Mr. G. Nanmaran, Specail Government Pleader.

ORDER

An order in original dated 13.12.2024 is assailed on the ground that such order is unreasoned.

2. The petitioner received show cause notice dated 26.12.2023. Such show cause notice was replied to on 31.01.2024 by stating that the petitioner carries on trade in goods. It was further stated that the petitioner pays taxes in respect of the sale of taxable goods, whereas no tax is leviable both on the sales and purchases of exempt goods. On that basis, the petitioner stated that common goods are not being dealt with and that, therefore, apportionment in terms of Rules 42 & 43 is not necessary. The impugned order was issued in these facts and circumstances.

3. Learned counsel for the petitioner referred to the petitioner's reply dated 31.09.2024 and thereafter to the impugned order. She points out that the impugned order merely records that the petitioner's reply is not satisfactory.

4. Mr. G. Nanmaran, learned Special Government Pleader, accepts notice for the respondent. He points out that the petitioner's reply was duly considered and even extracted in the impugned order. He also submits that the tax proposal was confirmed on account of the failure of the petitioner to produce documents in support of the reply.

5. From the petitioner's reply, it is clear that the petitioner asserted that taxes were paid in respect of taxable supplies and that interest liability in respect thereof was also discharged. The petitioner also asserted that apportionment of credit in terms of Section 17 of applicable GST statutes r/w Rules 42 & 43 thereof is not applicable in view of the nature of the goods dealt with by the petitioner. In the impugned order, the said reply was extracted in full. Thereafter, the following conclusions were recorded:

> *" **OBSERVATION OF THE OFFICER***
>
> *The taxpayer has not filed any Satisfactory reply and not produced any documents the reply of the tax payer is not related to the discrepancies. Hence, the defect proposed is hereby confirmed."*

The above extract discloses that a conclusion was recorded that a satisfactory reply was not filed. Any reasons in support of such conclusion are conspicuous by the absence thereof. Therefore, the impugned order cannot be sustained.

6. For reasons aforesaid, impugned order dated 13.02.2024 is set aside and the matter is remanded for reconsideration. The petitioner is permitted to file additional documents within 15 days from the date of receipt of a copy of this order. Upon receipt thereof, 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 additional documents from the petitioner. In view 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

The State Tax Officer,
Sowcarpet Assessment Circle,
Room No.302, 3rd Floor, Wall Tax Road,
Chennai – 3.

SENTHILKUMAR RAMAMOORTHY,J.

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