IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.Nos.20396 & 20398 of 2024
and
W.M.P.Nos.22324 & 22325, 22328 & 22329 of 2024

M/s.Vijay Bio Fertilizer and Co.,
Rep. by its Proprietor S.Vijayabasker,
D.No.9/963-4, Aravind Nagar,
C.A.K.Road,
Karur-639 002. ...Petitioner in both W.Ps'

Vs.

The State Tax Officer, Inspection-IV,
O/o.The Joint Commissioner (ST) (Intelligence),
Erode Division, Erode,
Tamil Nadu. ... Respondent in both W.Ps'

Prayer inW.P.No.20396/2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records on the file of the respondent in its impugned proceedings of the respondent order for the Assessment year 2021-22 in GSTIN 33ACWPV6147K2ZP/2021-22 dated 16.04.2024 along with consequential order vide DRC-07 order bearing Ref No:ZD330424124568F dated 16.04.2024 and quash the same.

Prayer in W.P.No.20398/2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records on the file of the respondent in its impugned proceedings of the respondent order for the Assessment year 2022-23 in GSTIN 33ACWPV6147K2ZP/2022-23 dated 17.04.2024 along with consequential order vide DRC-07 order bearing Ref No:ZD3304241358488 dated 17.04.2024 and quash the same.

Appearance in both W.P.s'

For Petitioner : M/s.R.Hemalatha

For Respondent : Mrs.K.Vasanthamala,
Government Advocate (Tax)

COMMON ORDER

Since the issue involved and the relief sought in both these Writ Petitions are identical in nature, the same were heard together and are disposed of vide this common order.

2. Challenging the impugned orders dated 16.04.2024 and 17.04.2024 passed by the respondent for the assessment years 2021-2022 and 2022-2023 respectively, the petitioner has filed these Writ Petitions.

3. The learned counsel for the petitioner submitted that due to some discrepancies in the tax liability for the Assessment years 2021-2022 and 2022-2023 filed by the petitioner, the respondent has issued DRC-01A notice to the

petitioner on 02.01.2024. However, the petitioner failed to respond to the said notice, therefore, the respondent had issued a show cause notice to the petitioner on 08.02.2024 in Form GST-DRC-01, directing the petitioner to pay the tax dues along with interest and penalty and also to file objections if any, within a period of 30 days from the receipt of the said notice through GST Portal. In this regard, the petitioner also made a detailed reply to the show cause notice dated 08.02.2024 on 08.03.2024, mentioning all the issues raised by the respondent for the Assessment years 2021-2022 and 2022-2023 respectively. The learned counsel for the petitioner contends that the petitioner was not able to produce some of the relevant documents pertaining to the impugned assessment periods, while replying to the said show cause notice. Hence, the petitioner seeks one more opportunity from this Court to produce all the relevant documents pertaining to the Assessment years 2021-2022 and 2022-2023 before the respondent. Further, she submitted that the petitioner also agrees to make a payment of 15% of the disputed tax in respect of the impugned assessment periods.

4. Mrs.K.Vasanthamala, learned Government Advocate appearing for the respondent would submit that subject to the deposit of 15% of the disputed tax demand by the petitioner in respect of the impugned assessment periods,

this Court may consider and pass appropriate orders.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondent and perused the materials available on record.

6. It is not in dispute that the petitioner had filed a detailed reply on 08.03.2024 to the show cause notice in Form DRC-01 dated 08.02.2024. However, the petitioner was unable to file some of the relevant documents at the time of sending its reply to the said show cause notice. The case of the petitioner is that if the documents sought to be relied on by the petitioner are considered by the respondent, then the tax liability would be reduced substantially or else the petitioner would be liable to pay huge amount towards tax and would be put to undue hardship. This Court is of the view that since the petitioner is agreeing to show its bona fide by paying 15% of the disputed tax amount, an opportunity should be afforded to the petitioner to furnish the documents sought to be relied on to the respondent.

7. For the reasons stated above, this Court is inclined to set-aside the impugned orders dated 16.04.2024 and 17.04.2024 passed by the respondent

with the following directions:-

(i) The orders impugned herein are set aside and the matters are remanded to the respondent for fresh consideration on condition that the petitioner shall deposit 15% of the disputed tax in respect of the impugned assessment years 2021-2022 and 2022-2023 to the respondent within a period of four weeks from the date of receipt of a copy of this order; and the setting aside of the impugned orders will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their additional reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On receipt of such additional reply/objection by the petitioner, the respondent shall consider the same and pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

8. With the above directions, these Writ Petitions are disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

08.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
jd

To

The State Tax Officer, Inspection-IV,
O/o.The Joint Commissioner (ST) (Intelligence),
Erode Division, Erode, Tamil Nadu.

Krishnan Ramasamy,J.,
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W.P.Nos.20396 & 20398 of 2024

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