IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08..2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.Nos.21616, 21622 and 21626 of 2024
WMP.Nos.23595, 23597, 23600, 23601, 23605 and 23603 of 2024

M/s.Nature Trading Company by its
Proprietrix Jayshree Dugar, Choolai
Chennai -112 Petitioner-All WPs

Vs

The State Tax Officer (ST), Choolai Assessment Circle
Chennai-6 Respondent-All WPs

Prayer:- These Writ Petitions are filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records relating to the orders dated 03.01.2024 in GSTIN:33AJMPK4586E1Z2/2018-19, 19.01.2024 GSTIN:33AJMPK4586E1Z2/2020-21 and 03.01.2024 in GSTIN;33AJMPK4586E1Z2/2021-22, passed by the Respondent and to quash the same.

For Petitioner : Mr.C.Rekhakumari-All WPs

For Respondent : Mrs.K.Vasanthamala, Government Advocate-All WPs

ORDER

1. These Writ Petitions are filed for issuance of Writ of Certiorari to call for the records relating to the orders dated 03.01.2024 in GSTIN: 33AJMPK4586E1Z2/2018-19, 19.01.2024 GSTIN: 33AJMPK4586E1Z2/2020-21 and 03.01.2024 in GSTIN;33AJMPK4586E1Z2/2021-22, passed by the Respondent and to quash the same.

2. The case of the Petitioner is that the Petitioner Company is engaged in the

business of trading plywood and an Assessee on the file of the Respondent. The Respondent issued show cause notices, dated 29.12.2022, in respect of the assessment years 2019-20, 2020-21 and 2021-22, calling for objections through the GST Portal Tab "View Additional Notices and Orders". Thereafter, the impugned orders came to be passed, demanding tax with penalty and interest on the ground that the Petitioner did not send a reply to the show cause notice and also did not appear in person. Hence, contending that since the impugned orders were passed, without affording an opportunity of filing a reply to the show cause notices, including a personal hearing to the Petitioner to establish their case, thereby violating the principles of natural justice, it is not sustainable, these Writ Petitions have been filed.

3. This Court heard the learned counsel on either side, considered their submissions and also perused the materials placed on record.

4. The learned counsel for the Petitioner would submit that the impugned show cause notices were issued through the GST Online Portal Tab "View Additional Notices and Orders" and that the originals of the same were not served physically on the Petitioner and hence, the Petitioner had no occasion to know about the issuance of the show cause notices and consequently, they could not file a reply and also could not appear for personal hearing, but however, the impugned orders came to be passed, without affording an opportunity of filing a reply to the impugned show cause notices, including a personal hearing to the Petitioner, thereby violating the

principles of natural justice. The learned counsel would further submit that the Petitioner would be able to establish their case if an opportunity is provided and that the Petitioner agrees to make a payment of 10% of the disputed tax demand in respect of each of the impugned assessment periods.

5. The learned Additional Government Pleader for the Respondent would submit that if this Court is satisfied and inclined to set aside the impugned order, appropriate orders may be passed, by putting the Petitioner on terms.

6. On considering the materials available on record and the submissions of the learned counsel on either side, it is seen that admittedly the impugned show cause notices were issued through the GST Portal Tab "View Additional Notices and Orders" and the originals of the same were not served physically on the Petitioner. When the Respondent Authority intends to pass an assessment order and raises a demand against an Assessee, it should be done only after affording an opportunity of filing a reply to the show cause notice, including a personal hearing to the Assessee and thereafter, considering the reply of the Assessee, as provided under law, but in this case, the Respondent Authority failed to do so. Further, the Petitioner herein was not in a position to notice about the issuance of show cause notices, since it was issued through the GST Portal Tab "View Additional Notices and Orders" and the original of the same was not served physically to the Petitioner. Consequently, the Petitioner was not able to send a reply and also to appear for personal hearing. According to the Petitioner, the Petitioner

would be able to establish their case if an opportunity is provided. In such circumstances, this Court is of the view that the impugned orders came to be passed, without affording opportunity of filing a reply to the show cause notice, including a personal hearing to the Petitioner to establish their case, thereby violating the principles of natural justice and hence, it is just and necessary to provide an opportunity to the Petitioner to establish their case, on merits and in accordance with law, however, by putting the Petitioner on terms.

7. For the reasons stated above, the matters in all these Writ Petitions are remanded back to the Respondent for consideration afresh, by setting aside the impugned orders on condition that the Petitioner shall pay 10% of the disputed tax demand, in respect of each of the assessment years, within a period of four weeks from the date of receipt of a copy of this order. Within two weeks thereafter, the Petitioner is permitted to submit a reply to the impugned show cause notices, by enclosing all relevant documents.

8. 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 of a personal hearing, by issuing a personal hearing notice, giving not less than 14 days time from the date of such notice and consider the reply along with the relevant documents to be submitted by the Petitioner and pass fresh orders, on merits and in accordance with law, within a period of eight weeks from the date of receipt of the Petitioner's reply.

9. With the above directions and terms, these Writ Petitions are disposed of. No costs. Consequently, the connected MPs are closed.

12.08..2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation: Yes/No
Srcm

To

The State Tax Officer (ST), Choolai Assessment Circle
Chennai-6

KRISHNAN RAMASAMY, J.

Srcm

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