IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.22415 of 2024 &
W.M.P.Nos.24410 & 24411 of 2024

M/s.Noor Jewel Impex,
Represented by its Partner,
No.15/1B, 1st Floor, Pitchan Street,
Alandur, Chennai - 600 016. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Vepery Assessment Circle,
No.10, Greams Road,
Palaniappa Maligail,
Chennai - 600 006. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent in Order dated 20.12.2023 in GSTN 33AANFN9026C1ZD/2017-18 and quash the same as illegal, arbitrary and in violation of principle of natural justice

For Petitioner : M/s.C.Rekhakumari

For Respondent : Mr.G.Nanmaran
Special Government Pleader (Taxes)

ORDER

The challenge made in this writ petition is to the order dated 20.12.2023 passed by the respondent, for the assessment year 2017-18.

2. According to the petitioner, they are a registered dealer on the file of the respondent herein. For the assessment year 2017-2018, the respondent issued a show cause notice alleging certain discrepancies in respect of the claim of ITC in GSTR-3B and GSTR-2A returns. Though the petitioner duly filed its reply to the said show cause notice, enclosing various self-declarations issued by the suppliers, the respondent passed the impugned order in a haste manner, without providing an opportunity to the petitioner to submit the balance self-declarations. Stating that the order impugned herein is arbitrary, illegal and in violation of the principles of natural justice, the petitioner has preferred this writ petition for the above stated relief.

3. The learned counsel for the petitioner submits that the discrepancy in the claim of Input Tax Credit between GSTR-3B and GSTR-2A may be due to uploading of GSTIN number wrongly or belated filing of returns by the suppliers. However, the petitioner filed its reply on 12.02.2023 on GSTN

portal along with documentary evidence to demonstrate that there is no difference between GSTR-3B and GSTR-2A returns. Thereafter, they sought time for production of self-declarations issued by some other suppliers. Without giving time, the respondent passed the order impugned herein appropriating the entire tax, penalty and interest. According to the learned counsel, the fundamental principles of natural justice require that a party must be given an adequate chance to be heard before any adverse decision is taken against them and hence, the order passed by the respondent is illegal and in violation of the principles of natural justice. It is also submitted that the entire tax amount has already been adjusted by the petitioner and hence, the petitioner may be granted one more opportunity to produce the required documents to substantiate their claim.

4. On the other hand, the learned Special Government Pleader (Taxes) for the respondent submitted that at the time of passing the order impugned herein, the petitioner had not furnished the required self-declarations of the suppliers and hence, there is no infirmity or illegality in the order passed by the respondent.

5. Heard the learned counsel on either side and perused the materials available on record.

6. It is the grievance of the petitioner that the respondent has not provided sufficient time to them to furnish the self declarations received from its suppliers and hence, the order passed by the respondent is in violation of the principles of natural justice. It is also submitted that the petitioner is now in possession of the self-declarations issued by its suppliers and therefore, if an opportunity is given to the petitioner, they will be able to furnish the required documents in support of their claim.

7. Considering the facts and circumstances of the case and also having regard to the grievance expressed by the petitioner, this court is inclined to grant an opportunity to the petitioner to substantiate their claim, for which, the learned counsel appearing for the respondent has no serious objection. Accordingly, the order impugned herein is set aside and the matter is remanded to the respondent for reconsideration. The petitioner is directed to file all the self-declarations obtained from its suppliers within a period of two weeks from the date of receipt of this order. On such filing, the respondent shall consider the same, after issuing a 14 days clear notice by fixing the date of personal hearing and thereafter, pass appropriate orders on merits and in accordance with law, as expeditiously as possible.

8. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

13.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
r n s

To

The Assistant Commissioner (ST),
Vepery Assessment Circle,
No.10, Greams Road,
Palaniappa Maligail,
Chennai - 600 006.

KRISHNAN RAMASAMY.J.,

r n s

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