IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.22045 of 2024
and W.M.P.Nos.24021 and 24023 of 2024

Tvl.Zulaikha Motors Pvt. Ltd.,
Rep. by its Authorised Signatory,
Ms.Vijayalakshmi Subburaj,
808/15, Old Door No.407/15,
GR Complex, Anna Salai, Nandanam,
Chennai - 600 035. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Nandanam Assessment Circle,
Commercial Taxes Department,
No.46, III Floor, Greenways Road,
Chennai - 28. ... Respondent

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, to call for the records relating to the impugned Assessment Order dated 06.04.2024 bearing GSTIN No.33AAACZ4106B1ZZ/2018-2019 issued by the respondent and quash the same.

For Petitioner : Mr.A.Abdul Rahman

For Respondent : Mr.T.N.C.Koushik
Additional Government Pleader (T)

- - - - -

ORDER

The present Writ Petition is filed for the issuance of a Writ of Certiorari, to call for the records relating to the impugned Assessment Order dated 06.04.2024 bearing GSTIN No.33AAACZ4106B1ZZ/2018-2019 issued by the respondent and quash the same.

2. The learned counsel for the petitioner submits that the respondent has issued a DRC-01A Intimation of discrepancy on 17.10.2023 by virtue of Section 73(5) of the GST and consequently, issued a show cause notice in Form GST DRC-01, dated 08.11.2023. The petitioner company was not aware of the GST proceedings and the Chartered Accountant was following the portal, and as a result, it is understood that the impugned Assessment Order for the year 2018-2019 was passed by the respondent on 06.04.2024 against the petitioner Company alleging the short fall of the tax paid along with interest and penalty. The respondent has failed to appreciate the Reconciliation Statement filed under GSTR -9C and payment of tax/ ITC credit utilized for it.

Since the respondent sent all the correspondences only through portal and that too in "Additional Notices and Orders" and that is why the petitioner was not able to defend the case.

3. He further submits that on verification of the statement of the show cause notice dated 08.11.2023 and the Assessment Order dated 06.04.2024, it is understood that the respondent, without verification of the actual utilisation of ITC claim, has blatantly issued a notice for difference to the tune of Rs.10,55,82,408/-, for which, no opportunity was given by the respondent to verify with actual figure of difference and consequently, the respondent, without any explanation, given the conclusion to the tune of Rs.28,12,33,800/-, which is to be quashed.

4. The learned Additional Government Pleader (T) appearing for the respondent would submit that the impugned order may be set aside subject to payment of Rs.1,50,00,000/- to be paid by the petitioner.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader (T) appearing for the respondent and perused the materials placed before this Court.

6. Considering the fact that all the notices were uploaded in the portal under the Additional Notices Column and therefore, the petitioner had no occasion to view the said column and the impugned order was passed without affording an opportunity to the petitioner to establish his case before the authorities concerned, which is violation of principles of natural justice, this Court is inclined to set aside the impugned Assessment Order dated 06.04.2024 bearing GSTIN No.33AAACZ4106B1ZZ/2018-2019 and accordingly, the same is set aside on condition that the petitioner shall deposit a sum of Rs.1,50,00,000/- (Rupees One Crore and Fifty Lakhs Only) within a period of four (4) weeks from the date of receipt of a copy of this order. Upon receipt of the said deposit, the authorities concerned is directed to pass orders with regard to lifting of the attachment order issued against the supplier of the petitioner. Thereafter, the petitioner is directed to file a reply within a period of two (2) weeks. After receipt of the reply, the authorities concerned shall fix a date for personal hearing by sending a physical notice to the petitioner providing 14 days time and thereafter, pass orders on merits and in accordance with law.

With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

13.08.2024

asi

To

The Assistant Commissioner (ST),
Nandanam Assessment Circle,
Commercial Taxes Department,
No.46, III Floor, Greenways Road,
Chennai - 28.

KRISHNAN RAMASAMY, J.

asi

W.P.No.22045 of 2024 and
W.M.P.Nos.24021 and 24023 of 2024

13.08.2024