IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.28151 of 2023
and
W.M.P.Nos.27670, 27671 & 34734 of 2023

K.S.Wind & Renewable India Private Limited,
Rep.by its Managing Director
Mr. K. Saravanakumar. ... Petitioner

Versus

Assistant Commissioner (ST),
Udumalpet (South) Circle,
Udumalpet. ... 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 GSTIN:33AAKFB8021C1ZZ/2021-22 dated 25.08.2022 for the month of April 2021 and quash the same.

For Petitioner : Mr. Kanimozhi Mathi

For Respondents : Mr. V. Prashanth Kiran,
Government Advocate (Tax)

ORDER

An order dated 25.08.2022 is assailed in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. A show cause notice dated 04.01.2023 was issued to the petitioner. The petitioner asserts that such show cause notice was not received by the petitioner because it was merely uploaded on the portal and not communicated to the petitioner through any other mode. The present writ petition was filed in the said facts and circumstances.

3. Learned counsel for the petitioner submits that the aggregate tax demand relating to the three relevant assessment periods is Rs.3,54,01,780/-. According to her, this demand was arrived at without giving credit to the credit available in the electronic credit ledger of the value of Rs.1,04,11,192/-. She further submits that a sum of Rs.1.59 crore was paid between 06.09.2021 to November 2022 and a further sum of Rs.35 lakhs between 20.12.2022 to 22.11.2023. Since a substantial portion of the tax liability was discharged, she seeks another opportunity to contest the tax demand on merits.

4. Mr. Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that principles of natural justice were complied with by providing intimation dated 22.04.2022 and show cause notice dated 03.06.2022.

5. On perusal of the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not respond to the show cause notice or participate in personal hearings. The petitioner has placed on record evidence that a substantial portion of the tax liability was discharged. Since revenue interest has been substantially protected, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits.

6. For reasons set out above, the impugned order dated 25.08.2022 is set aside and the matter is remanded for reconsideration. The petitioner is permitted to submit a reply to the show cause notice 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 the petitioner's reply.

7. For the avoidance of doubt, it is made clear that amounts remitted by the petitioner shall abide by the outcome of the remanded proceedings.

8. 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.

24.06.2024
(2/3)

Index :Yes/No
Speaking/Non-Speaking
Neutral Case Citation : Yes/No

klt

To

Assistant Commissioner (ST),
Udumalpet (South) Circle,
Udumalpet.

SENTHILKUMAR RAMAMOORTHY,J

klt

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