In the High Court of Judicature at Madras

Dated : 19.9.2024

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.27769 of 2024 &
WMP.Nos.30278 & 30279 of 2024

Tvl.SEWA TOJI Electronics rep.
by its Proprietor Mr.Gunasekaran ...Petitioner

Vs

The Deputy Sales Tax Officer,
Ganapathy Assessment Circle,
Commercial Tax Building,
Dr.Balasundaram Road,
Coimbatore-18. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records pertaining to the impugned order in Form GST DRC - 07 bearing reference number ZD330424200278R/2018-19 dated 25.4.2024 issued by the respondent and quash the same.

For Petitioner : Mr.S.Durairaj
For Respondent : Mr.G.Nanmaran, SGP

ORDER

This writ petition has been filed by the petitioner challenging the proceedings of the respondent dated 25.4.2024 passed under Section 73 of the Tamil Nadu General Sales Tax Act, 2017.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader accepting notice for the respondent.

3. The case of the petitioner is that during the last week of August 2024, the petitioner received a call from the office of the respondent directing the petitioner to pay the dues. Thereafter, the petitioner carried out due diligence and found that the respondent passed an order under Section 73 of the Act on the ground that there is a discrepancy in between Forms GSTR - 3B and GSTR - 1. The petitioner has taken a very specific stand that the petitioner is not aware about the proceedings initiated by the respondent and that the entire communication has been sent only through portal. Hence, the petitioner has contended that the order passed by the respondent is in violation of the principles of natural justice.

4. It is seen from the impugned proceedings that the respondent demanded a sum of Rs.10,72,818/- towards tax due, interest and penalty.

5. The learned Special Government Pleader appearing for the respondent submitted that notice was issued, that though sufficient opportunity was given, the petitioner did not avail the opportunity. and that therefore, the impugned order does not suffer from any illegality. Consequently, he has sought for dismissal of this writ petition.

6. In the instant case, it is seen that notice was issued by the respondent. However, the petitioner did not receive the same. On going through the impugned order, it is seen that a total liability of Rs.10.72 lakhs towards tax, interest and penalty has been imposed on the petitioner. The petitioner has come up with a clear case that there are sufficient materials/documents to substantiate the defense of the petitioner to the effect that there was no mismatch between the outward supplies turnover declared in GSTR - 1 and the outward supplies arrived in GSTR - 3B.

7. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned order passed by the respondent.

8. This Court had an occasion to deal with a similar issue in W.P. No.26477 of 2024 dated 12.9.2024. This Court wanted to afford an opportunity to the petitioner therein by putting the petitioner on terms. In order to maintain consistency, a similar order can be passed in this writ petition also.

9. In the light of the above discussions, the impugned order passed by the respondent in Reference No. ZD330424200278R/2018-19 dated 25.4.2024 is hereby set aside. The matter is remanded back to the respondent for a fresh consideration on condition that the petitioner shall pay 10% of the total demand before the respondent within a period of four weeks from today. If this condition is not complied with, the order passed by the respondent shall stand automatically revived. On compliance of the said condition, the petitioner shall file their reply/objection along with all the relevant documents within a period of two weeks thereafter. The respondent shall thereafter issue a fresh notice to the petitioner, afford an opportunity of personal hearing and pass final orders within a period of three months thereafter.

10. In the result, this writ petition is allowed with the above directions. No costs. Consequently, the connected WMPs are closed.

19.9.2024

To
The Deputy Sales Tax Officer,
Ganapathy Assessment Circle,
Commercial Tax Building,
Dr.Balasundaram Road,
Coimbatore-18.

RS

N.ANAND VENKATESH,J

RS

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