IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.36238 of 2024
and
W.M.P.Nos.39112 & 39115 of 2024

Mr.A.R.Traders
Represented by its Proprietor,
Amirtharaj ... Petitioner

Vs.

The State Tax Officer,
Perambur Assessment Circle,
No.1, Greams Road,
Annex, 2nd Floor,
Thousand lights,
Chennai 600 009. .. Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the impugned proceedings of the respondent in GSTIN No.33AIBPA3497J1ZE / F-Y 2019-20 dated 14.08.2024 along with its consequential Summary Order Ref.No.ZD330424034814L in Form GSTIN DRC – 07 dated 14.08.2024 for the Tax Period April 2019 to March 2020 and quash the same.

For Petitioner : Mr.S.Premalatha

For Respondent : Mr.K.Kaushik
Additional Government Pleader

ORDER

The present writ petition is filed challenging the impugned proceedings of the respondent for the Financial Year 2019-2020 dated 14.08.2024.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of Portland Cement, Aluminous Cement, Slag Cement, Super-sulphate Cement and its registered under the GST Act. During the relevant period of 2019-20, the petitioner has filed the returns and paid appropriate taxes. However, on scrutiny it was found that there was a mismatch between GSTR 3B and GSTR 2A.

3. It is submitted by the learned counsel for the petitioner that prior to issuance of show cause notice an intimation of tax liability in Form DRC-01 to initiate proceedings under Setion 73(1) of the Act, was not issued to the petitioner. The petitioner was issued only with a show cause notice in Form DRC-01 only on 11.03.2024 by the respondent followed by its summary proceedings. Pursuant to the same, the petitioner has given a reply to the

respondent on 13.04.2024, in spite of the same, the impugned order was passed by the respondent. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, he would be able to explain the discrepancy between GSTR 3B and GSTR 2A.

4. The learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of **Sree Manoj International Vs. Deputy State Tax Officer in W.P.No.10977 of 2024 dated 25.04.2024**, to submit that this court has remanded the matter back in similar circumstances subject to payment of 10% of the disputed taxes.

5. It was further submitted that the petitioner is ready and willing to pay 10% of the disputed tax and that he may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Additional Government Pleader appearing for the respondent does not have any serious objection.

6. In view thereof, the impugned order dated 14.08.2014 is set aside and the petitioner shall deposit 10% of the disputed tax within a period of four

weeks from the date of receipt of a copy of this order. On complying with the above condition, the impugned order of assessment shall be treated as show cause notice and the petitioner shall submit its objections within a period of four weeks from the date of receipt of a copy of this order along with supporting documents/material. If any such objections are filed, the same shall be considered by the respondent and orders shall be passed in accordance with law after affording a reasonable opportunity of hearing to the petitioner. If the above deposit is not paid or objections are not filed within the stipulated period, i.e., four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

7. This Writ Petition is disposed of with the aforesaid observation and direction. No costs. Consequently, connected miscellaneous petitions are closed.

10.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
kkd

To

The State Tax Officer,
Perambur Assessment Circle,
No.1, Greams Road,
Annex, 2nd Floor,
Thousand lights,
Chennai 600 009.

J.SATHYA NARAYANA PRASAD, J.

kkd

W.P.No.36238 of 2024

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