

2024 (85) G.S.T.L. 156 (Mad.)

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Senthilkumar Ramamoorthy, J.

BAJRANG CLOTHING

Versus

STATE TAX OFFICER (FAC), CHENNAI

W.P. No. 10131 of 2024 and W.M.P. Nos. 11175 & 11176 of 2024, decided on 16-4-2024

Assessment - Scrutiny of returns - Violation of natural justice - Period 2017-18 - A detailed notice was issued citing certain defects in books of account - Reply was submitted - Subsequently, assessment order was passed - Assessee challenged said order contending that it could respond to each of defects if provided an opportunity - *HELD* : An audit of assessee's books of account was conducted and an audit report was issued - An intimation and show cause notice preceded impugned order - Tax proposal was confirmed because assessee did not annex supporting documents - However, interest of justice demands that petitioner be provided an opportunity though he might be put on terms - Thus, matter was to be remanded on condition that assessee should remit 10% of disputed tax demand - Section 62 of Central Goods and Services Tax Act, 2017 - Section 62 of Tamil Nadu Goods and Services Tax Act, 2017 - Article 226 of Constitution of India. *[paras 5 and 6]*

Matter remanded in favour of assessee

REPRESENTED BY : Shri A. Ilaya Perumal, for the Petitioner.

Shri V. Prashanth Kiran, Government Advocate (T), for the Respondent.

[Order]. - The petitioner assails an order dated 29-12-2023 on the ground that a reasonable opportunity was not provided to contest the tax demand on merits.

2. The petitioner is engaged in the wholesale trade of textiles. A detailed notice was issued on 27-9-23 citing certain defects in the books of account for the assessment period 2017-18. Such notice was replied to on 4-11-2023. Thereafter, an assessment order was issued on 29-12-2023. The present writ petition was filed in the above facts and circumstances.

3. Learned Counsel for the petitioner submits that the petitioner would be in a position to respond to each of the ten defects dealt with in the impugned order if provided an opportunity. He further submits that the petitioner is willing to remit 10% of the disputed tax demand as a condition for remand.

4. Mr. V. Prashanth Kiran, Learned Government Advocate, accepts notice for the respondent. By referring to the impugned order, he points out that an audit of the petitioner's books of account was conducted and that the intimation and show cause notice was subsequent to the issuance of the audit report to the petitioner. In these circumstances, he contends that sufficient opportunity was provided to the petitioner.

5. On perusal of the impugned order, it is evident that an audit was conducted and that an audit report dated 22-9-2023 was issued. It is also clear that an intimation and show cause notice preceded the impugned order. In these circumstances, the petitioner cannot be absolved of responsibility as a registered person to monitor the GST portal. At the same time, it is noticeable that the tax proposal was confirmed because the petitioner did not annex supporting documents. Therefore, albeit by putting the petitioner on terms, the interest of justice demands that the petitioner be provided an opportunity.

6. Therefore, the impugned order dated 29-12-2023 is set aside and the matter is remanded for reconsideration subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to within a maximum period of three weeks from the date of receipt of a copy of this order. Within the aforesaid period, the petitioner is permitted to submit relevant documents in support of the reply. Upon receipt thereof and upon being satisfied that 10% of the disputed tax demand was received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of two months from the date of receipt of documents from the petitioner.

7. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.