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Judgment No.: 112
Dt.: 16-04-2024

Judgment Deals With

Section/Rule	Section 65
Authority	Madras High Court
Case Name	M/s. Richards & John Wesley Engineers Pvt. Ltd. VS The Principal Chief Commissioner of GST & C.EX
Dated	04th April, 2024

Brief Facts of the Case:
The petitioner is engaged in the wholesale trade and distribution of electrical goods. Pursuant to an audit, the audit report dated 09.12.2022 was issued. The petitioner raised objections in relation thereto. Thereafter, a show cause notice dated 11.09.2023 was issued, which was replied to on 17.10.2023. Pursuant to a personal hearing on 20.10.2023, the impugned assessment order was issued on 28.12.2023.

Contention of the Petitioner:
The impugned order is vitiated by the failure of the Department to provide audit observations pursuant to the audit. The petitioner was deprived of the opportunity to respond to the audit observations before the audit report was prepared. The reply of the petitioner and the documents annexed in support of such reply were not duly taken into consideration while confirming the demand with regard to non-payment of GST on the sale of fixed assets and wrong availment of ITC.

Contention of the Department:
The petitioner did not raise objections to the audit report and instead participated in proceedings culminating in the impugned order. At this point of time, it is not open to petitioner to raise objection with regard to audit. The impugned order was issued on 28.12.2023 and petitioner failed to avail the statutory remedy available against such order.

Findings & Decision of the Court:
On perusal of the documents, it is evident that the petitioner was put on notice before the audit and submitted various documents in response to such notice. The petitioner also responded to the audit report and to the show cause notice. The impugned order discloses that a personal hearing was provided to the petitioner on 20.10.2023. It is clear that principles of natural justice were complied with in substance. It is further evident from the impugned order that six issues were taken up for consideration, out of which, upon consideration of the petitioner's reply, the tax proposal in respect of four issues were dropped. As regards the remaining issues, the tax proposals were confirmed.
However, it should be noticed that this writ petition was filed on 29.02.2024, which was within the original period of limitation. The petitioner is within the condonable period. Therefore, it is just and appropriate that the petitioner be permitted to present the statutory appeal. Therefore, the petitioner was permitted to present a statutory appeal before the appellate authority & the appellate authority was directed to dispose of the same on merits without going into the question of limitation.