IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.05.2020

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.7763 of 2020
and
W.M.P.No.9132 of 2020

Sree Saravana Engineering Bhavani Private Ltd.,
Rep. by its Managing Director
No.367/A, Mettur Main Road,
Bhavani - 638 301. ... Petitioner

Vs

The Assistant Commissioner (ST)
Bhavani. ... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorari, calling for the records of the respondent in GSTIN33AANCS3782R1ZG dated 13.05.2020 and quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondent : Mr.M.Hariharan
Additional Government Pleader

<u>O R D E R</u>

This matter is taken up for hearing through Video-Conferencing mode.

2. Mr.M.Hariharan, learned Additional Government Pleader takes notice or the respondent. By consent of both parties, the main writ petition is taken up for final disposal at the admission stage itself.

3. The petitioner is aggrieved against the order of assessment dated 13.05.2020 passed in GSTIN.No.33AANCS3782R1ZG.

4. The main grievance of the petitioner is that the impugned order was passed in violation of principles of natural justice, since the petitioner was not granted time to furnish objections to the show cause notice dated 12.12.2019. It is also contended that though the respondent has styled the proceedings dated 12.12.2019 as show cause notice, in effect, in the very notice itself, the respondent has confirmed the proposal. Therefore, it is

contended that the consequential impugned proceedings is in total violation of principles of natural justice. The petitioner also contended that the time sought for by the petitioner for filing their objections was also not considered.

5. Mr.M.Hariharan, the learned Additional Government Pleader appearing for the respondent submitted that the summary of the show cause notice dated 12.12.2019 is generated by the portal and thus, it is in the format in which, it was issued. However, he is also not disputing the fact that the said show cause notice also clearly indicates that the respondents has confirmed the proposal.

6. A bare perusal of the said show cause notice dated 12.12.2019, made available in the typed set of papers, clearly indicates that the respondent issued the show cause notice on 12.12.2019 and confirmed the said proposal also on the same day, which in my considered view, goes against the very basic principles of natural justice, as the petitioner/assessee was not at all given an opportunity to give their objections. Needless to say

that an assessment cannot be made without giving an opportunity of hearing to the assessee. In this case, as I find that the very show cause notice dated 12.12.2019 in effect, confirming the proposal made therein without hearing the petitioner, cannot be sustained and consequently, the order impugned in this writ petition also cannot be sustained. However, as this Court is not inclined to go into the merits of the claim made by the respective parties arising out of the issue raised in the show cause notice, this court is inclined to remit the matter back to the respondent for redoing the assessment once again, after giving an opportunity to the petitioner to put forth their case by way of objections.

7. Accordingly, this Writ Petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the respondent for redoing the assessment once again on merits and in accordance with law within the time frame fixed hereunder:

> (a) The petitioner shall treat the summary of the show cause notice dated 12.12.2019 as the show cause notice and give their reply within a

period of three weeks from the date of receipt of a copy of this order.

(b) On receipt of such reply, the respondent shall give an opportunity of personal hearing to the petitioner and pass fresh orders on merits and in accordance with law, within a period of two weeks thereafter.

(c) It is made clear that this Court is not expressing any view on the merits of the impugned order, as it is for the respective parties to agitate during the assessment proceedings.

No costs. Consequently, connected miscellaneous petition is closed.

27.05.2020

mk
Speaking/Non-speaking
Internet : Yes/No
Index : Yes/No

To
The Assistant Commissioner (ST)
Bhavani.

K.RAVICHANDRABAABU.J.,

mk

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