IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2023

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.Nos.16248, 16250, 16254, 16255 & 16258 of 2023
and
W.M.P.Nos.15641, 15643, 15646, 15649 & 15651 of 2023

Tvl.Lakshmi Corporation ... Petitioner in all W.P's

Vs.

1.The Joint Commissioner (ST),
Intelligence-I,
Commercial Taxes Buildings,
Greams Road, Chennai – 600 006.

2.The Deputy Commissioner (ST),
Inspection Unit, Intelligence-I,
Group VIII (Int.-I),
Commercial Taxes Buildings,
Chennai – 600 006.

3.The Deputy State Tax Officer,
Mannady Assessment Circle-I,
Integrated Commercial Taxes Buildings,
Chennai North Division,
No.32, Elephant Gate Bridge Road,
Chennai – 600 003. ...Respondents in all W.P's

Common prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified mandamus, calling for the records pertaining to the impugned order passed by the 3rd respondent in GSTIN-33AYRPS1329MIZV/2017-2018 to 2021-2022 dated 30.03.2023 respectively and consequently direct the respondents to refund the amount of Rs.13,22,386/- which is deposited on 15.06.2022 to the Government, along with interest to the petitioner.

For Petitioner : Mr.K.M.Malarmannan [in all W.P's]
For Respondents : Ms.Amirta Poonkodi Dinakaran [in all W.P's]
Government Advocate (T)

COMMON ORDER

This batch of writ petitions have been filed challenging the respective impugned orders passed by the 3rd respondent dated 30.03.2023 for the assessment years 2017-2018 to 2021 -2022 and seeking a direction to the respondents to refund the amount of a sum of Rs.13,22,386/- which is deposited with the government on 15.06.2022, along with interest to the petitioner.

2. The case of the petitioner is that the 2nd respondent has conducted a surprise inspection in the premises of the petitioner on

14.06.2022 and 15.06.2022 without any authorization from the 1st respondent/Joint Commissioner and the officials forced the petitioner to deposit the tax amount and penalty to a sum of Rs.13,22,386/- towards alleged stock variation and the same has also been paid by the petitioner. The main contention of the petitioner is that the respondents have not issued any notice for ascertaining tax liability and the said tax amount which was deposited by the petitioner was not noted in the impugned order. He further, contended that the impugned order dated 30.03.2023 came to be passed without providing any personal hearing opportunity to the petitioner. Hence the present writ petitions have been filed.

3. Mr.K.M.Malarmannan, learned counsel for the petitioner would submit that the petitioner has sought for time for furnishing the documents when they filed their replies but the respondent without considering the same, has proceeded to pass the impugned assessment orders.

3.1 Further, he would submit that the documents were not available with them and even not able to trace out those documents. Under these circumstances, the impugned order passed by the respondents would amount to violation of principles of natural justice.

3.2 The learned Counsel has further submitted that if one more opportunity of personal hearing is provided, the petitioner would satisfy the respondent, by producing the relevant documents which are now traced out and readily available with them.

4. On the other hand, Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (T) for the respondents would submit that they have provided sufficient opportunity of personal hearing to the petitioner. However, the petitioner has not filed any documents and even during the personal hearing, no one appeared. Under these circumstances, the 3rd respondent has passed the impugned orders dated 30.03.2023.

4.1 She has further submitted that if the petitioner has requested for some time to produce the documents at the time of personal hearing, the same would have been certainly considered by the respondents.

4.2 She has further submitted that the petitioner having failed to appear for personal hearing, now approaching this Court, as if, the respondents have not provided any opportunity of personal hearing. Hence he prays for dismissal of the present writ petitions.

5. Heard both sides and also perused the materials available on record.

6. On a perusal of the impugned orders dated 30.03.2023 passed by the respondents, it appears that the petitioner has filed a reply stating that since the documents were not available with them, they requested the respondents to grant some time to furnish the same. Since they made such a reply, the respondent has also granted time and fixed the date of personal hearing on 06.03.2023, so as to enable the petitioner to file the documents and appear for personal hearing. However, on the said date, none appeared for the petitioner. Therefore, the respondent has proceeded to pass the impugned order dated 30.03.2023.

7. On the other hand, the learned counsel for the petitioner would submit that since the documents were not available with the petitioner, they were not in a position to appear for personal hearing on 06.03.2023 and produce the same.

8. At any cost, the petitioner should have appeared before the authorities concerned and asked for some time. In the present case, neither he appeared nor such request was made. But now he pleads before this Court to provide one more opportunity for personal hearing, since the documents are now available with them and they are ready to produce the same before the concerned authorities.

9. Though this Court is of considered view that the attitude of the petitioner is not up to the satisfaction of this Court and considering the fact that at any cost, no orders could be passed by the respondents, ignoring the documents which are available with the petitioner now, this Court is inclined to direct the respondents to give final opportunity of hearing to the petitioner to produce the documents and the respondents shall consider and pass appropriate orders in accordance with law.

10. Accordingly, this court passes the following order:

(i) the impugned order dated 30.03.2023 is set aside and the matter is remanded back to the authorities concerned.

(ii) the petitioner is directed to file all the documents available with them along with any additional reply, if any, within a period of two (2) weeks from the date of receipt of a copy of this order.

(iii) thereafter, the respondents are directed to fix the date of personal hearing, on which date, it is made clear that the petitioner shall appear and produce the documents and thereafter, the respondents are directed to consider the same and pass appropriate orders in accordance with law within a period of 30 days thereafter.

Accordingly, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

14.12.2023

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Internet:Yes
Index : Yes / No
Speaking order/Non-Speaking order
Neutral Citation : Yes / No

To

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KRISHNAN RAMASAMY, J.

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