IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.18900 of 2023
and
W.M.P.No.18136 of 2023

Sandeep Lalwani ... Petitioner

Vs.

The Assistant Commissioner (ST) (FAC),
Park Town Assessment Circle,
Chennai - 600 003. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order bearing reference number GSTIN : 33ABSPL9862E1Z7/2018-2019 dated 01.06.2023, passed by the respondent herein and to quash the same, in so far as, the said impugned order had been passed without jurisdiction, authority of law and in clear violation to the principles of natural justice.

For Petitioner : Mr.S.Baskaran

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

The petitioner has challenged the impugned order in GSTIN : 33ABSPL9862E1Z7/2018-2019 dated 01.06.2023 passed by the respondent.

2. The specific case of the petitioner is that the petitioner had applied for cancellation of registration on 15.10.2022 and the registration was cancelled on 28.10.2022.

3. It is submitted that after the aforesaid cancellation, the petitioner was not access the web portal as the petitioner has ceased to carry on business.

4. It is the further case of the petitioner that the petitioner was served with a notice on 15.12.2022 by RPAD, which was received by the petitioner on 19.05.2023 and that the petitioner had also filed a reply on 26.05.2023.

5. The case of the petitioner is that the impugned order dated 01.06.2023 acknowledges the receipt of reply dated 26.05.2023 on 30.05.2023.

6. Despite the receipt of the reply on 30.05.2023, the impugned order has been passed on the next date i.e., on 01.06.2023.

7. That apart, the learned counsel for the petitioner would submit that two intimation notices were issued to the petitioner under Section 86A(1)(a) and (c) of the Tamil Nadu Goods and Services Tax (TNGST) Act, 2017 on 21.11.2022, which were hosted in the web portal. It mentions Input Tax Credit availed by the petitioner from two different suppliers namely Tvl.Global Pharma Chem and Tvl.Maruthi Enterprises with the same GSTIN namely GSTIN : 33CZHPR5649N2ZK.

8. It is submitted that the order has been passed in gross violation of principles of natural justice and therefore the impugned order is liable to be quashed.

9. On behalf of the respondent, the learned Government Advocate would submit that the petitioner cannot argue that no notice was served on the petitioner under Section 169 of the Tamil Nadu Goods and Services Tax (TNGST) Act, 2017. In this case, all the notices including the Show Cause

Notice dated 15.12.2022 were hosted in the web portal.

10. It is therefore submitted that it is not open for the petitioner to argue that the petitioner has not received the Show Cause Notice and the Notices that preceded the said Show Cause Notice dated 15.12.2022.

11. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondent.

12. The fact remains that the Show Cause Notice dated 15.12.2022 was served on the petitioner by RPAD on 19.05.2023.

13. The petitioner has thereafter responded by filing the reply dated 26.05.2023, which has been received by the respondent on 30.05.2023, which is also stands confirmed in the impugned order dated 01.06.2023.

14. The impugned order has been passed in gross violation of principles of natural justice as the petitioner has not heard before the order was passed.

15. Considering the above, the impugned order is set aside and the case is remitted back to the respondent to pass a fresh order on merits and in accordance with law within a period 45 days from the date of receipt of a copy of this order.

16. This Writ Petition is disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

20.09.2023

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

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C.SARAVANAN, J.

arb

To

The Assistant Commissioner (ST) (FAC),
Park Town Assessment Circle,
Chennai - 600 003.

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and
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