IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:**02.02.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.2142 of 2024
and W.M.P.No.2299 of 2024

Tvl.Sri Amman Rice & Oil Mills,
Represented by its Partner,
Na.Muthusamy,
No.109, Uthukuli Town Road,
Uthukuli R.S.,
Tirupur District. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Chennimalai Assessment Circle,
No.300, Bhavani Main Road,
Perundurai-638 052. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the order of the respondent dated 28.12.2023 in TNGST No.697505/1993-94, and quash the same and consequently, direct the respondent to pass a speaking order after getting an explanation from the petitioner and after giving a personal hearing to the petitioner.

For Petitioner : Mr.K.Selvaraj

For Respondent : Mr.C.Harsha Raj,
Additional Government Pleader (T)

ORDER

An order dated 28.12.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the matter. The matter relates to the assessment period 1993-1994. The petitioner had filed a writ petition before this Court earlier and the said writ petition was disposed of by order dated 17.08.2023 by permitting the petitioner to file a reply before the respondent. Thereafter, the petitioner filed writ appeal No.3390 of 2023. The said writ appeal is currently pending.

2. Learned counsel for the petitioner submits that the respondent did not await the outcome of the writ appeal and instead proceeded to issue the impugned assessment order. It is further submitted that the then counsel for the petitioner passed away and, therefore, the petitioner was handicapped on account of non availability of relevant documents.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice on behalf of the respondent. He submits that the petitioner was provided a reasonable opportunity but did not avail of the same. Nevertheless, he submits that the respondent may be directed to reconsider the matter solely with a view to provide an opportunity of hearing to the petitioner.

4. The facts on record indicate that the petitioner was unable to contest the tax claim at least partly on account of the demise of learned counsel, who then represented the petitioner. In effect, the impugned assessment order was issued without considering the submissions of the petitioner. Solely for that reason, the impugned order calls for interference.

5. Therefore, the impugned order dated 28.12.2023 is quashed and the matter is remanded to the respondent for reconsideration. The petitioner is permitted to submit a reply along with supporting documents within a maximum period of two weeks from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to issue a fresh

assessment order after providing a personal hearing to the petitioner within a maximum period of two months thereafter.

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

02.02.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

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To

The Assistant Commissioner (ST),
Chennimalai Assessment Circle,
No.300, Bhavani Main Road,
Perundurai-638 052.

SENTHILKUMAR RAMAMOORTHY,J

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