IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.7362 of 2024 &
W.M.P.Nos.8258 & 8259 of 2024

M/s.Subbhiksha Jewellers,
Rep. by its Proprietor N.Satheesh Kumar,
Residing at,
No.68EF, Suguna Nagar 2,
Koundampalayam,
Coimbatore Northi,
Coimbatore District - 641 030. ... Petitioner

Vs.

The Assistant Commissioner (ST)
Velandiyapalayam Assessment Circle,
Coimbatore. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent in Form GST ASMT-13 with reference No.ZD330923057194C, dated 11.09.2023 passed under Section 62 of TNGST Act, 2017 read with the consequential notice in Form GST DRC 13 with reference 33AGPPK2117H1ZL/A3 u/s 79(1)(c) dated 28.12.2023 and quash the same as illegal and devoid of merits.

For Petitioner : Mr.M.Varun Pandian

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

ORDER

This writ petition has been filed to quash the order of the respondent in Form GST ASMT-13, with reference No.ZD330923057194C dated 11.09.2023, issued under Section 62 of the Tamil Nadu Goods and Services Tax (TNGST) Act, 2017, along with the consequential notice in Form GST DRC-13 with reference No.33AGPPK2117H1ZL/A3 under Section 79(1)(c) dated 28.12.2023.

2. The learned counsel for the petitioner submits that all notices/communications were uploaded in GST portal. However, the petitioner, being a small business concern, was not aware of the notices uploaded on the GST portal, resulting in their failure to file a reply within the stipulated time. While so, without providing any opportunity to the petitioner, the respondent passed the impugned orders, which are in violation of the principles of natural justice. The learned counsel would also submit that the petitioner had already deposited the entire tax before the authority concerned.

3. Heard the learned Additional Government Pleader (Taxes) appearing for the respondent, who made his submissions supporting the orders impugned herein.

4. It is evident from the pleadings and the documents placed before this Court that the respondent passed the order and the consequential notice, which are impugned herein without providing an opportunity of personal hearing to the petitioner and hence, the same is in violation of the principles of natural justice. According to the petitioner, they had already paid the entire tax before the authority concerned.

5. In view of the above, this Court is of the opinion that it is just and necessary to provide an opportunity to the Petitioner to establish their case on merits and in accordance with law. Accordingly, the impugned order and the consequential notice are set aside, subject to the verification of the payment of the entire tax made by the petitioner by the competent authority. The setting aside of the order and the consequential notice will take effect upon such verification. The petitioner shall file their reply/objection along with the required documents, if any, to the respondent within a period of two weeks from the date of receipt of a copy of this order. On filing of such

reply/objection by the petitioner, the respondent shall consider the same after issuing a 14 days clear notice by fixing the date of personal hearing and thereafter pass appropriate orders on merits and in accordance with law, as expeditiously as possible.

6. With the above directions, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

28.08.2024
(2/4)

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

r n s

To

The Assistant Commissioner (ST)
Velandiyapalayam Assessment Circle,
Coimbatore.

KRISHNAN RAMASAMY.J.,
r n s

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(2/4)