IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.10024 of 2023
& W.M.P.Nos.10071 & 10072 of 2023

M/s.K.Chinnu & Company Constructions Pvt.Ltd.,
Managing Director, #63A, Bharathi Park Road,
7th Cross, Saibaba Colony,
Coimbatore 641 043.

... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Big Bazaar Assessment Circle,
Coimbatore

2.The Goods and Services Tax Network,
Rep by its Nodal Officer,
4th Floor, East Wing, Asset 11,
Hospitality District, Aerocity,
New Delhi 110 003

3.The Assistant Commissioner (ST),
Mettupalayam Assessment Circle,
Coimbatore.

... Respondents

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 impugned assessment order in GSTIN 33AABCK986OC1ZO/2018-19 dated 18.08.2022 for the assessment year 2018-19 from the files of the 1st respondent herein and quash the same.

For Petitioner	:	Ms.G.Kumudhaa, for Ms.Aparna Nandakumar
For Respondent	:	Ms.K.Vasanthamala, Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 18.08.2022 passed by the 1st respondent.

2. Ms.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the respondents. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that all notices/communications were uploaded by the respondent under the column, viz., "View Additional Notices and Orders", in the GST portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. Further, he would submit that the respondents has already recovered a sum of Rs.30,00,000/- from the petitioner and hence, he requests this Court to lift the bank attachment and de-freeze the bank account of the petitioner.

5. On the other hand, the learned Government Advocate appearing for the respondents would submit that the 1^{st} respondent has uploaded the notices in the GST Online Portal. But the petitioner failed to avail the

said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she requested this Court to remit the matter back to the respondent.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents and also perused the materials available on record.

7. In the case on hand, it is clear that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice since it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned order dated 18.08.2022 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 18.08.2022 is set aside and the matter is remanded to the 1st respondent for fresh consideration.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

(iii) On filing of such reply/objection by the petitioner, the 1st respondent shall consider the same and issue a 14 days clear notice, by fixing the date of personal hearing, to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner cannot survive any longer and hence, it is lifted. As a sequel, the respondents are directed to release the attachment and de-freeze the bank account of the petitioner, immediately upon the production of a copy of this order.

8. With the above directions, this writ petition is disposed of. No

costs. Consequently, the connected miscellaneous petitions are also closed.

19.10.2024

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

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KRISHNAN RAMASAMY.J.,

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