IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2024

CORAM

THE HON'BLE Mr. JUSTICE **KRISHNAN RAMASAMY**

W.P.Nos.12018, 12054 and 11980 of 2024
and
W.M.P.Nos.13111, 13112, 13157, 13159, 13069 and 13070 of 2024

M/s.SVB Groups rep. By its Proprietor,
No.6A, Erumiyampatti,
Kokkarapatty Post,
Pappireddipatti Taluk,
Dharmapuri District. .. Petitioner in all W.Ps

Vs.

State Tax Officer,
Palacode, Harur Assessment Circle,
Dharmapuri District. .. Respondents in all W.Ps

Petitions filed under Article 226 of The Constitution of India praying to issue a writ of certiorari to call for the entire records relating to impugned proceedings (i) dated 01.09.2023 passed in GSTIN/ID:33ANBPV1511D1ZL/2019-2020 (ii) dated 01.09.2023 passed in GSTIN/ID:33ANBPV1511D1ZL/2020-2021 and (iii) dated 31.08.2023 passed in GSTIN/ID:33ANBPV1511D1ZL/2021-2022 on the file of the respondent and quash the same.

For Petitioner	..	Mr.R.Ezhilarasan in all WPs
For Respondent	..	Mr.T.N.C.Kaushik, Addl. Govt. Pleader (Taxes) in all WPs

COMMON ORDER

In all these writ petitions, challenge has been made to the assessment orders dated 01.09.2023 in respect of the assessment years 2019-2020 and 2020-2021 respectively and the assessment order dated 31.08.2023 in respect of the assessment year 2021-2022.

2. Learned counsel for the petitioner submits that the petitioner is engaged in telecommunication business and after conducting inspection, the respondent has issued a show cause notice in Form GST DRC-01A dated 21.03.2023 disallowing the input tax credit followed by show cause notices dated 06.07.2023. Though the petitioner sent reply to the show cause notices and opted for personal hearing in the online portal, without providing personal hearing, the respondent passed the impugned orders dated 01.09.2023, 01.09.2023 and 31.08.2023 respectively. Learned counsel submits

that in the portal, when we click 'Yes' for the column 'Option for Personal Hearing', it appears as 'Yes' but the print out taken shows the option as 'No'. Therefore, learned counsel for the petitioner would contend that without providing an opportunity of personal hearing, the impugned orders were passed in violation of principles of natural justice and the same are liable to be set aside. Thus, the present writ petitions.

3. Per contra, learned Additional Government Pleader for respondent by referring to the print out filed by the petitioner would submit that in the reply, the petitioner opted 'No' in the column 'Option for Personal Hearing' and therefore no opportunity of personal hearing was provided. Further, he would submit that some time, when we click 'Yes', it will go to 'No' but in the portal, it will be shown as 'Yes'. Therefore, under these circumstances, the respondent is ready to comply with the order to be passed by this Court.

4. This Court considered the submissions made by both sides and perused the materials available on record.

5. In the present cases, show cause notices were issued for three assessment years and the petitioner also filed reply specifically requesting for personal hearing and opted for 'Yes' but the print out of Form GST DRC-06 shows that the option 'No' was selected. Therefore, the petitioner was deprived of the right of personal hearing. Section 75(4) of GST Act mandates that an opportunity of hearing should be granted even if the respondent intends to pass an adverse order against the petitioner.

6. In the present cases, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned orders. Hence this Court is of the view that the impugned orders were passed in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish its case on merits. In such view of the matter, this Court is inclined to set aside the impugned orders dated 01.09.2023, 01.09.2023 and 31.08.2023 respectively passed by the respondent. Accordingly, this Court passes the following order:-

(i) The orders impugned herein are set aside;

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

(iii) On filing of such reply/objection by the petitioner, the 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.

7. Accordingly, the writ petitions are disposed of. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

16.08.2024

Index:Yes/No
Neutral Citation: Yes/No
mmi

To

The State Tax Officer,
Palacode, Harur Assessment Circle,
Dharmapuri District.

KRISHNAN RAMASAMY, J.

mmi

W.P.Nos.12018, 12054 and 11980
of 2024

16.08.2024