IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.19028 of 2024
and
W.M.P.Nos.20872 & 20875 of 2024

M/s.Soundarajan Earth Movers,
Rep by its Proprietor Mr.T.Soundarajan,
No.4, Mariamman Koil Street,
Mullikolathur,
Thirukkalukundram,
Chengalpattu 603 109.

... Petitioner

Vs.

The Deputy State Tax Officer -1,
Thirukazhukundram Assessment Circle (State),
No.42, Wahab Nagar,
Thirukazhukundram,
Chengalpattu District 603 109.

... 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 impugned order in Form GST DRC-07 bearing reference GSTIN 33EDPPS9773A1Z1/2018-19 dated 29.02.2024 passed by the respondent and order of rejection of application for rectification bearing reference GSTIN 33EDPPS9773A1Z1/2018-19 dated 12.06.2024 passed by the respondent and quash the same.

For Petitioner : Mr.R.Anishkumar

For Respondent : Ms.K.Vasanthamala,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 29.02.2024 and the order of rejection of rectification application dated 12.06.2024 passed by the respondent.

2. Ms.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the respondent. 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 initially, the respondent had issued a show cause notice in Form GST DRC-07 dated 18.12.2023. The petitioner, being unaware of the said notice, failed to file their reply for the said show cause notice.

Thereafter, the respondent-Department has passed an impugned order dated 29.02.2024 demanding the tax dues for a sum of Rs.3,49,928/-. However, since the petitioner has already paid a sum of Rs.2,90,244/- out of the said due amount for financial year 2018-19, a rectification application was filed by the petitioner to rectify the aforesaid impugned order. The said rectification application was also rejected by the respondent vide order dated 12.06.2024.

4. Further, he would submit that the main grievance of the petitioner is that both the impugned order and rejection order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner, due to which, he was unable to explain with regard to the payment of a sum of Rs.2,90,244/-. Therefore, he requests this Court to set aside the order passed by the respondent.

5. The learned Government Advocate for the respondent would submit that though the respondent-Department has uploaded the show cause notice DRC-01 in their portal, no reply was filed by the petitioner

and hence, the impugned order came to be passed. However, she fairly admitted that no opportunity of personal hearing was provided to the petitioner. Therefore, she requests this Court to pass appropriate orders.

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

7. In the present case, the show case notice was uploaded in the portal of the respondent-Department. However, the petitioner was not aware of the said notice and hence, he was unable to file a reply for the notice issued by the respondent.

8. Further, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order and the rejection order. Hence, this Court is of the view that both the impugned order and the rejection order were passed in violation of principles of natural justice. In such view of the matter, this Court is inclined to set

aside the impugned order dated 29.02.2024 and rejection order dated 12.06.2024 passed by the respondent.

9. While setting aside the impugned order, this Court remits this matter back to the respondent for re-consideration. Therefore, the petitioner is directed to file their reply, for the show cause notice issued by the respondent, within a period of 2 weeks from the date of receipt of copy of this order. After filing of reply by the petitioner, the respondent is directed to fix a date for personal hearing and thereafter, pass an appropriate order, in accordance with law, after providing sufficient opportunities to the petitioner.

10. With the above directions, these writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

06.08.2024

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

KRISHNAN RAMASAMY.J.,

nsa

To

The Deputy State Tax Officer -1,
Thirukazhukundram Assessment Circle (State),
No.42, Wahab Nagar,
Thirukazhukundram,
Chengalpattu District 603 109.

W.P.No.19028 of 2024
and W.M.P.Nos.20872 & 20875 of 2024

06.08.2024