IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.19317 of 2024
and
W.M.P.Nos.21183 & 21186 of 2024

M/s.Dynamic Rajagiri Services,
Represented by its Partner, Mr.Antony Tharu,
No.69/26, Room No.4, 5, 6, 7,
1st Floor, Walltax Road,
Chennai, Tamil Nadu 600 079

... Petitioner

Vs.

Deputy State Tax Officer,
Moore Market, Assessment Circle,
Integrated Commercial Taxes Building,
Chennai North Division,
No.32, Elephant Gate Bridge Road (Walltax Road),
Vepery, Chennai 600 003.

... 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 in the impugned order dated 27.01.2024 with reference GSTIN: 33AACAD3667R1ZA/2018-19 in the files of the respondent and quash the same as manifestly, arbitrary, void, contrary and violative of Article 14, 19(1)(g) and 21 of the Constitution of India.

For Petitioner : Mr.S.Ramamurthy,
for Mr.K.Kably Taiyab Khan

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order passed by the respondent dated 27.01.2024.

2. The learned counsel for the petitioner would submit that the respondent-Department issued a notice in Form DRC-06 dated 10.08.2023, for which, the petitioner filed his reply along with other supporting documents. However, in non-application of mind, the impugned order has been passed by the respondent stating that no reply was filed by the petitioner.

3. He would also contend that no opportunity of personal hearing was provided by the respondent prior to the passing of impugned order, which is violation of principles of natural justice. Hence, he requests this Court to set aside the impugned order. In this regard, he has referred to another petition (W.P.No.19634 of 2024), which was filed with same set of facts, this Court passed an order dated 06.08.2024, whereby the impugned order passed by the respondent was set aside.

4. The learned Government Advocate appearing for the respondent would fairly submit that the reply filed by the petitioner was extracted by the respondent in the impugned order, however, the same was not considered by them. Hence, he requests this Court to pass appropriate orders.

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

6. In the present case, though the petitioner has filed his reply to the Form DRC-06 notice issued by the respondent and the same was extracted in the impugned order, no consideration was made and no findings were given by the respondent in respect of the said reply filed by the petitioner.

7. Further, it appears 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 27.01.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 27.01.2024 is set aside and the matter is remanded to the respondent for fresh consideration.

(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 copy of this order.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, within a period of 8 weeks from the date of receipt of the reply filed by the petitioner.

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

07.08.2024

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

KRISHNAN RAMASAMY.J.,

nsa

To

Deputy State Tax Officer,
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