IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.19944 of 2024 &
W.M.P.Nos.21823 of 2024 & 21824 of 2024

D.Mahendran ... Petitioner

Vs.

The Deputy State Tax Officer-2,
Kotagiri Assessment Circle,
The Nilgiris. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari to call for the records on the file of the respondents in GSTIN33CHUPM3725L1ZW/2018-19 dated 28.02.2024 for the Tax Period 2018-19 and quash the same and direct the respondent to order afresh after considering the reply submitted by the Petitioner.

For Petitioner : Mr.J.Bharathiraja

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

ORDER

This writ petition has been filed by the petitioner challenging the order dated 28.02.2024 passed by the respondent for the Assessment Year 2018-2019 and for a consequential direction to the Respondents to pass orders afresh after considering the reply submitted by the petitioner.

2. Mrs.K.Vasanthamala, learned Government Advocate (Taxes) takes notice on behalf of the respondent.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner submits that show cause notice was issued to the Petitioner on 26.12.2023 by the Respondent, for which a detailed reply was submitted by the Petitioner on 09.02.2024. But, the Respondent with considering the same has passed the impugned assessment order on 28.02.2024 and therefore same is in violation of the principles of natural justice. He further submitted that the petitioner is now ready and willing to pay 10% of the demand made by the respondent in the event if the impugned order is set aside and the matter is remitted back to the respondent for passing orders afresh after considering the reply filed by

the petitioner, for which, the learned Special Government Pleader (Taxes) has no serious objection.

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

6. In the present case, it appears that though the Petitioner had filed a reply to the show cause notice, the same was not considered by the Respondent and the impugned order came to be passed without hearing the petitioner. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice and 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 28.02.2024 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of the disputed tax to the respondent within a period of ***four week***s from the date of receipt of a copy of this

order and the setting aside of the impugned orders will take effect from the date of payment of the said amount.

(ii) Since the reply was already filed 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 petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

08.08.2024

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

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To

The Deputy State Tax Officer-2,
Kotagiri Assessment Circle,
The Nilgiris.

KRISHNAN RAMASAMY.J.,

arr

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