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.Nos.19805, 19808. 19811,
19814, 19817, 19821 and 20440 of 2024
W.M.P.Nos.21692, 21694, 21695, 21696,21698, 21699, 21701, 21703, 21707, 21708, 21711, 21712, 22391 and 22392 of 2024**

W.P.No.19805 of 2024

Sri Raghavendra Neuro Care Private Limited
Represented by its Authorised Signatory R.Natarajan
4/1, 4/2, Vijayaraj Towers, Meyyanoor Main Road,
Three Roads, Salem-636009. ... Petitioner

Vs.

State Tax Officer/Commercial Tax Officer.
Intelligence, Salem,
Integrated Commercial Taxes Building,
Pitchards Road Hasthampatty, Salem-636 007. ... 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 and quash the order passed by the Respondent under Section 74 of the GST Acts dated 01.03.2024 and the consequent summary of the Order in Form GST DRC-07 dated 01.03.2024 for the Financial Year ('FY') 2017-18 both passed by the Respondent and both having Reference Number ZD3303240000101 and the order dated 29.02.2024 in Ref.-33ANCS6702R1ZQ/2017-18 for the Financial year ('FY') 2017-18, passed by the Respondent.

For Petitioner : Mr.N.V.Balaji
(in all W.P.'s)
For Respondent : Mr.C.Harsha Raj
(in all W.P.'s) Additional Government Pleader (Taxes)

COMMON ORDER

Since the issue involved in all these Writ Petitions are one and the same, they are taken up together and disposed of by this common order.

2.These writ petitions have been filed by the petitioner challenging the impugned orders passed by the Respondent under Section 74 of the GST Acts dated 29.02.2024 for the Assessment Years 2017-18, 2018-19,2019-20, 2020-21, 2021-22, 2022-23 and 2023-24 and the summary orders dated 01.03.2024.

2. Mr.C.Harsha Raj, learned Additional Government Pleader (Taxes) takes notice on behalf of the respondent.

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

4. The learned counsel for the petitioner submits that in all these cases, initially show cause notices were issued on 08.12.2023. Thereafter, the Respondent sent reminder dated 17.02.2024, asking the Petitioner to submit its reply to the aforesaid show cause notices on or before 21.02.2024 and also fixed the personal hearing on 21.02.2024. He further submitted that on account of technical glitches in the GST portal, the petitioner failed to file their reply within the time and the same was also informed to the Respondent during the course of personal hearing. Subsequently, the Petitioner submitted his reply to the Show Cause Notices on 28.02.2024 and in the said reply also the Petitioner has specifically requested the Respondent to afford them an opportunity of personal hearing, after going through the reply, but the Respondent failed to consider the same and hurriedly passed the impugned orders, by imposing future damages and therefore the impugned orders passed are

in violation of the principles of natural justice and prays to set aside the same.

5. On the other hand, the learned Additional Government Pleader (Taxes) would submit that the respondent provided the opportunity of personal hearing to the Petitioner twice vide notices dated 02.02.2024 and 17.02.2024, but the petitioner failed to avail the said opportunity. He further submitted that the reply submitted by the Petitioner was well considered and the same was also elaborately discussed in the impugned orders. He further submitted only due to belated reply given by the Petitioner, future damages have been imposed. Hence, he prayed for appropriate orders.

6. This Court has given anxious consideration to the submissions made by the learned counsel appearing on either side and perused the materials available on record.

7. It is the case of the Petitioner that even before the submission of reply by the Petitioner, the Respondent might have drafted the impugned orders, by imposing future damages and therefore they were passed on the same date of the reply submitted by the petitioner i.e, on 28.02.2024 and subsequently summary orders came to be passed on 01.03.2024.

8. In view of the aforesaid facts and circumstances and the submissions made, this Court is of the considered view that once the reply was filed, it is the bounded duty of the Respondent to provide an opportunity of personal hearing to the Petitioner, which was not done by the Respondent and that apart the Petitioner has also specifically requested the Respondent to grant an opportunity of personal hearing, in the reply submitted by them. It is also the settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal hearing to the petitioner otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice.

9. Having regard to the fact that the impugned orders came to be passed without hearing the petitioner in violation of the principles of natural justice, and also considering the submissions made by the learned counsel on either side, this court passes the following order:-

(i) The orders impugned herein are set aside.

(ii) The petitioner shall file their reply/objections along with the required documents, if any, within a period of two weeks thereafter.

(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.

10. Accordingly, the writ petitions are 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 State Tax Officer/Commercial Tax Officer.
Intelligence, Salem,
Integrated Commercial Taxes Building,
Pitchards Road Hasthampatty, Salem-636 007.

KRISHNAN RAMASAMY.J.,
arr

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