IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.19576 of 2024 &
W.M.P.Nos.21432 & 21434 of 2024

Tvl.Sai SGS Roofings Private Limited,
Rep. by its Director,
G.Saravanan,
169, Sidco Women Industrial Park VIllage,
Kattoor Post, Vellanur,
Thirumullaivoyal,
Chennai, Tamil Nadu - 600 062. ... Petitioner

Vs.

The State Tax Office,r
Thirumullaivoyal Assessment Circle,
Room NO.114, 1st Floor,
Integrated Commercial Taxes Offices Building,
No.32, Elephant Gate Bridge Road,
Park Town, Chennai - 600 003. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in GSTIN :33AAXCS6481K1Z1/2017-2018, dated 09.02.2023 and quash the same and consequently direct the respondent to give an opportunity of personal hearing.

For Petitioner : Mr.P.R.Kumar

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

ORDER

This writ petition has been filed to quash the order dated 09.02.2023 passed by the respondent under Section 73 of the TNGST Act, 2017 / CGST Act, 2017 and to direct the respondent to provide an opportunity of personal hearing to 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 the pre-assessment notice in DRC1 and subsequent notices were uploaded in the GST portal. However, the petitioner, being a small business concern, was not aware of the notices uploaded on the GST portal, resulting in their failure to file replies within the stipulated time. While so, without providing any

opportunity to the petitioner, the respondent passed the impugned order, which is in violation of the principles of natural justice. The learned counsel would also submit that the petitioner had already deposited 10% of tax while filing an appeal before the appellate Authority, which was not considered on the ground of limitation and therefore, the petitioner is before this court with the present writ petition.

5. Heard the learned Government Advocate (Taxes) appearing for the respondent, who made her submissions supporting the order impugned herein.

6. It is evident from the pleadings and the documents placed before this Court that the respondent passed the order, which is impugned herein without providing an opportunity of personal hearing to the petitioner and hence, the same is in violation of the principles of natural justice. It is also pertinent to mention at this juncture that the petitioner had already paid 10% of the tax demanded at the time of filing the appeal before the Appellate Authority.

7. In view of the above, this Court is of the opinion that it is just and necessary to provide an opportunity to the Petitioner to establish their case on merits and in accordance with law. Accordingly, the order impugned herein is set aside. The petitioner shall file their reply/objection along with the required documents, if any, to the respondent within a period of two weeks from the date of receipt of a copy of this order. 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, as expeditiously as possible.

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

08.08.2024

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

r n s

To

The State Tax Officer Hosur,
North -2 Krishnagiri - 635 002.

KRISHNAN RAMASAMY.J.,

r n s

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W.M.P.Nos.21432 & 21434 of 2024

08.08.2024