IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.19990 and 19997 of 2024
and
W.M.P.Nos.21881 & 21891 of 2024

M/s.G.S.Enterprises
Represented by its Managing Partner
Mr.Manickam Muthukrishnan
10/C2, Appachi Gounder Thottam
Sankari RS Post, Sankari
Salem, Tamil Nadu- 637 302. ... Petitioner in both W.P.'s

Vs.

Deputy State Tax Officer-2
Sankari Assessment Circle,
Office of the Assistant Commissioner (State Taxes)
1st Floor, Tiruchengode Road, RDO Complex
Sankari. ... Respondent in both W.P.'s

Prayer in both W.P.'s:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the impugned order Nos.ZD331123181177M dated 29.11.2023 and

ZD331223272479A dated 30.12.2023 passed by the Respondent under Section 73 of the Central Goods and Services Tax Act, 2017 read with the correspondent provision under the Tamil Nadu Goods and Services Tax Act, 2017 for the year 2017-18 and quash the same.

For Petitioner : Mr.V.Srinivasan
(in both W.P.'s)
For Respondent : Mr.V.Prashanth Kiran
(in both W.P.'s) Government Advocate (Taxes)

COMMON ORDER

Since the issue involved in both these Writ Petition are one and the same, they are taken up together and disposed of by the Common order.

2. These writ petitions have been filed challenging the impugned orders dated 29.11.2023 and 30.12.2023 passed by the Respondent and to quash the same.

3. Mr.V.Prashanth Kiran, learned Government Advocate (Taxes), takes notice on behalf of the respondent. 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 would submit that initially summary to show cause notices dated 25.09.2023 and 14.09.2023 were issued by the Respondent, for which the Petitioner vide communication dated 01.11.2023 sought further time to give reply for the aforesaid notices, but the Respondent without considering the same has passed the impugned orders dated 29.11.2023 and 30.12.2023. Since the consultant of the Petitioner-Company failed to inform about the said orders, the Petitioner was not aware of the same. They came to know only after receipt of the recovery notices from the bank. He further submitted that the amount due were recovered from the Petitioner's bank account and thereafter the said recovery notices came to be withdrawn by the respondent.

5. Further, he would submit that since the impugned orders came to be passed without hearing the Petitioner, the same amounts to violation of principles of natural justice and hence requested this Court to set aside the same.

6. The learned Additional Government Pleader (Taxes) appearing for the respondent fairly submitted that the entire amount due have been recovered from the Petitioner's bank account, appropriate orders may be passed.

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

8. In the present case, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned orders. Hence, this Court is of the view that the impugned orders were 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 orders dated 29.11.2023 and 30.12.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The orders impugned herein is set aside.

(ii) The petitioner shall file their reply/objection 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.

9. 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
arr

KRISHNAN RAMASAMY.J.,

arr

To

Deputy State Tax Officer-2
Sankari Assessment Circle,
Office of the Assistant Commissioner (State Taxes)
1st Floor, Tiruchengode Road, RDO Complex
Sankari.

W.P.Nos.19990 and 19997 of 2024
and
W.M.P.Nos.21881 & 21891 of 2024

08.08.2024

08.08.2024