IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20056 of 2024 &
W.M.P.Nos.21951 of 2024 & 21954 of 2024

TVL Sri Murugan Hardwares
Rep. by its Proprietor
Mr.Ramachandran,
No.7B, Gangai Amman Koil Street,
Jaffarkhanpet, Chennai
Tamil Nadu- 600 083. ... Petitioner

Vs.

Assistant Commissioner (ST),
Saidapet Assessment Circle,
#1, PAPJM Building (Annex),
Fifth floor, Greams Road,
Chennai-600006. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to quash the impugned order in Reference No.ZD3312232224791Q dated 27.12.2023 passed u/s. 73 of the TNGST Act, 2017 for the FY 2017-2018 by the Respondent.

For Petitioner : Mr.R.Sivaraman

For Respondent : Mr.G.Nanmaran
Special Government Pleader (Taxes)

ORDER

This writ petition has been filed by the petitioner challenging the order dated 27.12.2023 passed by the respondent for the Assessment Year 2017-2018.

2. Mr.G.Nanmaran, learned Special Government Pleader (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 uploaded under the head "Additional Notices and Orders" in the GST portal and therefore is not aware of the same and thus, failed to file their reply to the show cause notice in time. While so, without providing any opportunity to the petitioner, the respondent passed the impugned order dated 27.12.2023 and the same was also uploaded in "Additional Notices and Orders"s and therefore the Show Cause Notice as well as the impugned assessment order are passed in violation of the principles of natural justice. He further submitted that already a sum of Rs.4,92,000/- towards disputed

tax has already been paid to by the Petitioner and prays to allow this Petition.

5. On the other hand, the learned Special Government Pleader (Taxes) would submit that the respondent uploaded the show cause notice in the GST Online Portal. But the petitioner failed to submit reply in time and therefore the impugned assessment order came to be passed. However, he fairly agreed that the Petitioner has already paid a sum of Rs.4,92,000/- towards the disputed tax.

6. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondent and also perused the materials available on record.

7. In the present case, 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 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 27.12.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The order 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.

8. 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/nsa

KRISHNAN RAMASAMY.J.,

arr/nsa

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