IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20468 of 2024
and
W.M.P.Nos.22417 & 22418 of 2024

M/s.GVS Envicon Technologies Private Limited,
Rep by its Authorised Signatory,
M.Gayathri,
170, Pandiyas K2V Complex, 2nd Floor,
Pammal Main Road, Krishna Nagar,
Pammal, Chennai 600 075.

... Petitioner

Vs.

State Tax Officer,
Chrompet Assessment Circle,
3rd Floor, Integrated Commercial Tax Building,
Nandanam, Chennai 600 035.

... Respondents

Prayer:

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 impugned order dated 07.12.2023 in GSTIN: 33AABC1882A1Z6/2017-18 along with consequential summary of the said order in DRC-07 bearing reference ZD331223040057Y dated 07.12.2023 passed by the respondent and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order 07.12.2023 passed by the respondent.

2. Mr.T.N.C.Kaushik, Additional Government Pleader, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that subsequent to the show cause notice issued by the respondent, the petitioner had filed their reply. Thereafter, the assessment order came to be passed, whereby the miscellaneous income was treated as GST turn over, for which the tax was also imposed by the respondent. The said

aspect was not mentioned in the show cause notice issued by the respondent and hence, the impugned order, which was passed beyond the scope of show cause notice, is liable to be set aside.

4. Further, he would submit that no opportunity of personal hearing was granted to the petitioner to explain their case. Hence, he would contend that the impugned order, which is passed in violation of principles of natural justice, is liable to be set aside.

5. On the other hand, the learned Additional Government Pleader appearing for the respondent had fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to pass appropriate orders and remit the matter back to the respondents.

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

7. In the present case, the respondent has passed the impugned order, whereby they had treated the miscellaneous income as GST Returns and imposed tax for the same. The said aspect was not mentioned in the show cause notice and hence, the impugned order was passed beyond the scope of the said show cause notice.

8. That apart, 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. In such view of the matter, this Court is inclined to set aside the impugned order dated 07.12.2023 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 07.12.2023 is set aside and the matter is remanded to the respondent for fresh consideration.
>
> (ii) The respondent is directed to issue a 14 days clear show cause notice to the petitioner, including all

the issues that has to be decided by the respondent while passing the impugned order.

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

(iv) 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.

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

09.08.2024

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

KRISHNAN RAMASAMY.J.,

nsa

To

State Tax Officer,
Chrompet Assessment Circle,
3rd Floor, Integrated Commercial Tax Building,
Nandanam, Chennai 600 035.

W.P.No.20468 of 2024
and W.M.P.Nos.22417 & 22418 of 2024

09.08.2024