IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.20488 & 20515 of 2024
and
W.M.P.Nos.22438, 22439, 22461 & 22462 of 2024

M/s.RKR Gold Private limited,
Represented by its Authorised Signatory,
No.285, Karuppana Gounder Street,
Coimbatore, Tamil Nadu 641 001.

... Petitioner in both petitions

Vs.

The Assistant Commissioner (ST)(FAC),
R.S.Puram Assessment Circle, Coimbatore II,
Coimbatore, Tamil Nadu

... Respondent in both petitions

Prayer in W.P.No.20488 of 2024:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the impugned assessment order in Ref.No.ZD331223277329C dated

30.12.2023 under Section 73 of the CGST/TNGST Act, 2017, for tax period 2017-18 from the files of the respondent herein, quash the same.

Prayer in W.P.No.20515 of 2024:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the impugned assessment order in Ref.No.ZD3312232966649 dated 31.12.2023 under Section 73 of the CGST/TNGST Act, 2017, and uploaded along with summary of order in DRC-07 for tax period 2017-18 from the files of the respondent herein, quash the same.

For Petitioner
in both petitions : Ms.Aparna Nandakumar

For Respondent
in both petitions : Mr.C.Harsha Raj,
Additional Government Pleader

COMMON ORDER

These writ petitions have been filed challenging the impugned orders dated 30.12.2023 and 31.12.2023 passed by the respondent.

2. Mr.C.Harsha Raj, learned Additional Government Pleader, takes notice on behalf of the respondent in both the petitions. 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 in the present case, due to non-application of mind, the respondent had passed 2 assessment orders for the very same subject matter for same assessment year. Further, he would submit that all notices/communications were uploaded by the respondent under the column, viz., "View Additional Notices and Orders", in the GST portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned orders came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner.

4. The learned Additional Government Pleader appearing for the respondent had also admitted that the respondent had passed 2 assessment orders for the very same subject matter. Further, he has 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 remit the matter back to the respondent, subject to the payment of 10% of the disputed amount by the petitioner.

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

6. In the present case, two assessment orders were passed by the respondent for the very same subject matter and hence, it is crystal clear that the said impugned orders, which were passed in non-application of mind, are liable to be set aside. When such being the case, this Court is not inclined to direct the petitioner to deposit 10% of the disputed tax amount as requested by the respondent.

7. Further, 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. In such view of the matter, this Court is inclined to set aside the impugned orders dated 30.12.2023 & 31.12.2023 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned orders dated 30.12.2023 and 31.12.2023 are set aside and the matter is remanded to the respondent for fresh consideration.
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> (ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks from the date of receipt of copy of this order.
>
> (iii) 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, these writ petitions are 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
To

The Assistant Commissioner (ST)(FAC),
R.S.Puram Assessment Circle, Coimbatore II,
Coimbatore, Tamil Nadu

KRISHNAN RAMASAMY.J.,

nsa

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