IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.No.20809 of 2024
and W.M.P.Nos.22759 and 22761 of 2024

Logos Constructions (P) Ltd
Represented by its Managing Director
Mr.S.S.Antony Joseph
No.14, Logos, 1st Avenue, Ashok Nagar,
Chennai – 600 083. ... Petitioner

Vs.

1.The Assistant Commissioner (ST)
Intelligence I,
Room No.241, 2nd Floor, No.1,
PAPJM Building
Greams Road, Chennai – 600 006.

2. The State of Tamil Nadu
Represented by Secretary to Government
Commercial Taxes and Registration (B1)
Department
Fort St.George, Chennai – 600 009 ... Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, to call for the records on the files of the first respondent in impugned order passed under Section 73 in Reference No.ZD3312231809957 dated 23.12.2023 for F.Y.2017-18 and quash the same as barred by limitation and in gross violation of principles of natural justice.

For Petitioner : Mr. J.Narayanaswamy
for Mr. J.Pooventera Rajan

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader (Tax)

ORDER

The present Writ Petition has been filed to call for the records on the files of the first respondent in impugned order passed under Section 73 in Reference No.ZD3312231809957 dated 23.12.2023 for F.Y.2017-18 and quash the same as barred by limitation and in gross violation of principles of natural justice.

2. The learned counsel for the petitioner submits that the petitioner has been filing GST returns periodically and paying GST till date without any default. The team of GST officers have conducted inspection at registered place of business of the petitioner on 18.01.2023 and allegedly found that there are certain discrepancies and tax liabilities were recorded at the time of inspection. Based on which, the 1st respondent issued show cause notices dated 26.09.2023 for F.Y.2017-18 and 26.10.2023 for F.Y.2018-2019 and he has not proposed penalty and interest in the above said show cause notices. The impugned order passed under Section 73 in

Reference No.ZD3312231809957 dated 23.12.2023 for F.Y.2017-18 was uploaded in the portal and that too in "view additional notices and orders" and the petitioner was not able to defend the case. Even the personal hearing notice was also issued in the same portal, the petitioner has not appeared for the same. Hence, the petitioner has not filed a reply. Therefore, the order passed by the 1st respondent is in violation of principles of natural justice. He further submitted that the petitioner is willing to deposit 10% of the disputed tax amount and hence, the order passed by the 1st respondent may be set aside and remanded the matter back to the respondent for reconsideration.

3. The learned Additional Government Pleader appearing for the Respondents would submit that though the notice was uploaded by the respondent in the web portal, the petitioner had failed to appear before the respondent for personal hearing. However, he would fairly submit that if any order is passed by this Court, the same will be complied with by the respondent.

4. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents and perused the materials placed before this Court.

5. In the present case, it appears that the notices have been uploaded in the portal under the "view additional notices and orders" column and the same were not at all physically served to the petitioner, due to which, the petitioner was unaware about the said notice. Hence, the reasons provided by the petitioner for being unaware of the notice, which was uploaded in the web portal, are appears to be genuine.

6. Further, this Court is of the view that no order can be passed without providing sufficient opportunities to the petitioner. However, in the present case, no reply was filed by the petitioner and no opportunity of personal hearing was provided to the petitioner. Hence, the impugned order is liable to be set aside.

7. Accordingly, the impugned order dated 23.12.2023 is set aside and remanded the matter back to the respondent on condition that the petitioner

shall deposit 10% of the disputed tax demand of the impugned assessment year, within a period of four (4) weeks from the date of receipt of a copy of this order and thereafter, the petitioner is directed to file a reply within a period of two (2) weeks. After receipt of the reply, the authorities concerned shall fix a date for personal hearing by sending a physical notice to the petitioner and thereafter, pass orders on merits and in accordance with law.

8. With the above directions, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

08.08.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation: Yes/No
msv

To
1.Deputy Commercial Tax Officer/
Deputy State Tax Officer-2
Kundrathur Assessment Circle,
Sriperumbudur: Kancheepuram,Tamil Nadu – 600 123.
2.Deputy Commissioner (ST),
Kanchipuram Zone,
Commercial Taxes Building, 1st Floor,
Kanchipuram Collectorate Campus,Kanchipuram – 631501.

KRISHNAN RAMASAMY, J.

msv

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