IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20293 of 2024
and
W.M.P.Nos.22218 & 22219 of 2024

Tvl.Murali Enterprises,
Rep by its Proprietor, Manmohan Bisani,
No.100, Govindappa Naicken Street,
Sowcarpet, Chennai 600 001.

... Petitioner

Vs.

The Assistant Commissioner (ST),
Kothawalchavadi Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.312, Elephant Gate Bridge Road,
Chennai 600 003.

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in Ref.No.ZD331223179814C dated 22.11.2023 and quash the same andn consequently direcct the respondent to given an opportunity of personal hearing.

For Petitioner : Mr.P.Suresh Babu

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

ORDER

This writ petition has been filed challenging the impugned proceedings dated 22.11.2023 passed by the respondent.

2. Mr.T.N.C.Kaushik, learned 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 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 order came to be passed by the respondent without providing any

opportunity of personal hearing to the petitioner and the petitioner came to know about the said impugned order when the garnishee order was passed by the responent in the month of May, 2024.

4. On the other hand, the learned Government Advocate would submit that the respondent has uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. 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. In reply, the learned counsel for the petitioner would submit that the petitioner had already deposited 10% of the disputed amount to the respondent.

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, 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. Further, it was submitted by the petitioner that they had already remitted 10% of the disputed amount to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 22.12.2023 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 22.12.2023 is set aside and the matter is remanded to the respondent for fresh consideration.
>
> (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

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, 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
To

The Assistant Commissioner (ST),
Kothawalchavadi Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.312, Elephant Gate Bridge Road,
Chennai 600 003.

KRISHNAN RAMASAMY.J.,

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