IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20074 of 2024 &
W.M.P.Nos.21968 of 2024 & 21971 of 2024

M/s.Ketan Mahendra Chandran,
Represented by its Proprietor
Mr.Ketan Mahendra Chandran,
No.155, Govindappa Naicken Street,
Chennai-600 001. ... Petitioner

Vs.

1. The State Tax Officer,
Sowcarpet Assessment Circle,
Room No.302, 3rd Floor,
Integrated Commercial Taxes
Office Complex,
No.32, Elephant Gate Bridge Road,
Vepery,
Chennai 600 003.

2. The State Tax Officer,
Group-1, Intelligence-1,
O/o. the Deputy Commissioner (S.T),
Inspection-1,
1, PAPJM Buildings,
Greams Road,
Thousand Lights, Chennai-600 006. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue writ of certiorari to call for the records in the order passed by the 1st Respondent in impugned order dt.30.12.2023 in TN-

GST/33AAJPC7603G1Z4/2017-18 and in Summary or order in Form DRC-07 in Ref.No.ZD331223281550R dt.30.12.2023 and quash the orders as arbitratory and illegal.

For Petitioner : Mr.G.Mohana Krishnan

For Respondents : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

ORDER

This writ petition has been filed by the petitioner challenging the order passed by the 1st Respondent dt.30.12.2023 in TN-GST/33AAJPC7603G1Z4/2017-18 and the Summary or order in Form DRC-07 in Ref.No.ZD331223281550R dt.30.12.2023.

2. Mr.V.Prashanth Kiran, learned Government Advocate (Taxes) takes notice on behalf of the respondents.

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 dated 30.08.2023 and the summary of the show cause notice dated

30.08.2023, followed with a reminder notice dated 06.11.2023 were uploaded in the GST common portal instead of "View Additional Notices/Orders" or under "View notices/orders" and therefore the petitioner 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 1st respondent passed the impugned order as well as summary order dated 30.12.2023 and the same was also uploaded in the common portal and therefore he would submit that the impugned assessment order as well as summary order were passed in violation of the principles of natural justice

5. On the other hand, the learned Government Advocate(Taxes) would submit that the respondents uploaded the show cause notice as well as the reminder notice in the GST Online Portal. But the petitioner failed to submit reply in time and therefore the impugned assessment order along with summary order came to be passed.

6. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 10% of the demand made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Government Advocate (Taxes) has no serious objection.

7. Having regard to the admitted fact that the impugned orders came to be passed without hearing the petitioner in violation of the principles of natural justice, and also considering the submissions made by the learned counsel on either side, this court passes the following order:-

> (i) The orders impugned herein are set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall 10% of the disputed demand to the respondent within a period of ***four weeks*** from the date of receipt of a copy of this order and the setting aside of the impugned orders will take effect from the date of payment of the said amount.
>
> (ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.
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> (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
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To

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KRISHNAN RAMASAMY.J.,

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