IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.08.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.21365 of 2024 &
W.M.P.No.23315 of 2024

Tvl.AVIZA TECHNOLOGIES
Rep. by its Partner Mrs.Sakshi Bhende,
S.F.No.408/1A and 40, Seerapalayam Village,
Angappa College, Madukkarai TK,
COIMBATORE-641105. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Kuniyamuthur Assessment Circle,
COIMBATORE 641 008. ... Respondent

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 files of the respondent in GSTIN:33ABBFA0869R1Z4/2017-18 dated 30.12.2023 and quash the same being illegal, invalid, against the law and violated principles of natural justice.

For Petitioner : Mr.D.Vijayakumar

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

ORDER

This writ petition has been filed by the petitioner challenging the order dated 30.12.2023 passed by the Respondent.

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

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 intimation notice dated 02.08.2023 was issued against the Petitioner, pointing out certain discrepancies in the returns filed by the Petitioner for the Assessment Year 2017-2018 and the same was uploaded by the Respondent in the GST portal. Since, the Petitioner was not aware of the same they failed to file their reply to the said notice in time. While so, without providing any opportunity to the petitioner, the respondent passed an impugned order dated 30.12.2023 and the same was also uploaded in the GST Portal. After coming to know of the said proceedings, the Petitioner approached the Respondent along with relevant documents for rectification of the defects. Though the Respondent initially agreed to correct the defects after getting opinion from the higher

authorities, had failed to do the same, at the later point of time and hence the delay occurred, due to which, the Petitioner could not file Appeal. Hence, this Writ Petition has been filed seeking for the aforesaid relief.

5. Further, he would submit that the impugned order has been passed without affording an opportunity of hearing to the Petitioner and therefore the same is in violation of the principles of natural justice and therefore prays to set aside the same. He further submitted that the Petitioner had already deposited the tax demanded by the Respondent.

6. On the other hand, the learned Government Advocate (Taxes) would submit that the respondent uploaded the intimation notice along with personal hearing notice in the GST Online Portal. But the petitioner failed to submit reply in time and failed to appear before the authority concerned. Therefore the impugned assessment order came to be passed. However, he fairly agreed that the Petitioner has already paid the disputed tax.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the respondent and also perused the materials available on record.

8. 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 and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned order dated 30.12.2023 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The order impugned herein is set aside and the matter is remitted back to the authority 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 thereafter.
>
> (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.

9. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petition is closed.

19.08.2024

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

The Assistant Commissioner (ST),
Kuniyamuthur Assessment Circle,
COIMBATORE 641 008.

KRISHNAN RAMASAMY.J.,

arr

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