IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20701 of 2024 &
W.M.P.Nos.22645 & 22646 of 2024

Kumaravel Kasinathan
Proprietor of M/s.Kumaran Fabricators,
No.56/1, New Mettu Street,
Kovilpathagai, Avadi,
Chennai - 600 062. ... Petitioner

Vs.

The Deputy State Tax Officer (ST)-1,
Thirumullaivoyal Assessment Circle,
Integrated Commercial Taxes Office Complex,
No.32, Room No.114,
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 Certiorari, to call for the records of the respondent in order dated 24.08.2023 in GSTIN: 33BJIPK3747A1ZK/2017-18 and quash the same.

For Petitioner : M/s.C.Rekha Kumari

For Respondent : Mr.G.Nanmaran
Special Government Pleader (Taxes)

O R D E R

This Writ Petition has been filed by the petitioner to quash the impugned order dated 24.08.2023 passed by the respondent.

2. Mr.G.Nanmaran, learned Special Government Pleader (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 would submit that all notices/communications were uploaded under the "View Notices and Orders" and "View Additional Notices and Orders" in the GST portal. However, the petitioner being a small business concern is not aware of the notice uploaded in the GST portal and thus, failed to file their reply within the time. They came to know about the notice only after receiving a call from the respondent. While so, without providing any opportunity to the petitioner, the respondent passed the impugned order, demanding the payment of GST for a sum of Rs.1,13,184/- for the assessment year 2017-2018, which is in violation of the principles of natural justice.

5. On the other hand, the learned Special Government Pleader (Taxes) would submit that the respondent uploaded the notice for personal hearing in the GST Online Portal. But the petitioner failed to avail the said opportunity. He would further submit that now, the petitioner can very well present their case before the Deputy Commissioner (Appeal), since the Appellate Authority has power to remit the case. Hence, he prayed for appropriate orders.

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 (Rs.1,13,184/-) made by the respondent in the event of providing an opportunity to them to file their reply/objections along with the required documents to substantiate their claim, for which, the learned Special Government Pleader (Taxes) has no serious objection.

7. Heard the learned counsel for the petitioner and the learned Special Government Pleader (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 24.08.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay a sum of Rs.1,13,184/- (10% of 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 order 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.

(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 Petitions are closed.

09.08.2024

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

sri

To

The Deputy State Tax Officer (ST)-1,
Thirumullaivoyal Assessment Circle,
Integrated Commercial Taxes Office Complex,
No.32, Room No.114,
Elephant Gate Bridge Road,
Chennai - 600 003.

KRISHNAN RAMASAMY.J.,
sri

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