IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.20937 & 20938 of 2024
and
W.M.P.Nos.22876 to 22881 of 2024

Tvl.Sri Krishna Modern Rice Mill,
Tirukoilur Assessment Circle,
Represented by its Proprietor, G.Krishnamoorthy,
No.47/1B, Kallakurichi Main Road,
Kezha Thazhanur, Tirukoilur,
Villupuram, Tamil Nadu 605 757.

... Petitioner in both petitions

Vs.

1.The State Tax Officer (GST),
Inspection IV, Cuddalore.

2.The State Tax Officer,
Tirukoilur.

3.Branch Manager,
ICICI Bank Limited,
No.47/1B, Kallakurichi Main Road,
Kelathalanur, Tirukoilur.

... Respondents in both petitions

Common 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 1st respondent's order dated 05.12.2023 in GSTIN: 33AOGPK7995C1ZR/2020-21 & 33AOGPK7995C1ZR/2021-22 and 2nd respondent's consequential Form GST DRC-13 dated 17.05.2024 and to quash the same.

For Petitioner
in both petitions : Mr.Y.Kavitha

For Respondent
in both petitions : Ms.K.Vasanthamala,
Government Advocate.

COMMON ORDER

These writ petitions have been filed challenging the impugned order dated 05.12.2023 and the consequential Form GST DRC-13 dated 17.05.2024.

2. Ms.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the respondents in both the petitions. By consent of

the parties, the main writ petitions are 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. Hence, these petitions have been filed.

4. On the other hand, the learned Standing counsel appearing for the respondent 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 these matters

back to the respondent, subject to the payment of 10% of the disputed amount by the petitioner.

5. Heard the learned counsel for the petitioner and the learned Standing counsel for the respondent and also perused the materials available on record.

6. 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 05.12.2023 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 05.12.2023 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed amount, in each petition, to the

respondent within a period of four weeks from today (12.08.2024) 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.

7. With the above directions, these writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

12.08.2024

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

To

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Inspection IV, Cuddalore.

2.The State Tax Officer,
Tirukoilur.

3.Branch Manager,
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KRISHNAN RAMASAMY.J.,

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