IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20361 of 2024
and
W.M.P.Nos.22278 & 22279 of 2024

Heubach Colorants India Limited,
(Formerly Clariant Chemicals (India) Limited),
Represented by its Manager,
Sankar Shanmugam
Having Office at
Kudikadu, SIPCOT Post,
Cuddalore 607 005.

... Petitioner

Vs.

The State Tax Officer,
Chidambaram I, Assessment Circle,
Commercial Tax Department,
Tamil Nadu.

... 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 pertaining to impugned order in GSTIN: 33AAACC5602P1ZQ dated 27.05.2024 on the file of respondent and to quash the same as illegal, arbitrary and in violation of the principles of natural justice and direct the respondent to pass order afresh by strictly adhering to the procedure established by sub-rule (3) of rule 92 of the Central Goods and Service Tax Rules, 2017 and prescribed format in Form GST-08 iwthin such time as directed by this Court.

For Petitioner : Mr.J.Kumaran

For Respondent : Ms.K.Vasanthamala,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 27.05.2024 and to direct the respondent to pass order afresh in accordance with law.

2. Ms.K.Vasanthamala, learned Government Advocate, 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 initially the show cause notice was issued by the respondent on 15.05.2024, for which, the reply was filed by the petitioner. Subsequently, another notice dated 23.05.2024 was issued by the respondent, with same set of issues, by granting 4 days time to the petitioner for filing reply. Due to the shorter time granted by the respondent, the petitioner was unable to file their reply. Under these circumstances, the impugned order came to be passed by the respondent on 27.05.2024.

4. Further, he would submit that the impugned order was passed in violation of principles of natural justice since prior to the passing of the impugned order, the respondent has neither provided any time for filing reply nor provided any opportunity of personal hearing to the petitioner. Hence, he requests tis Court to set aside the impugned order passed by the respondent.

5. On the other hand, the learned Government Advocate appearing for the respondents had fairly admitted that no opportunity of personal

hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she requested this Court to pass appropriate orders and remit the matter back to the respondents.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

7. In the present case, the 1st show cause notice was issued by the respondent on 15.05.2024, for which the reply was filed by the petitioner. Thereafter, another show cause notice was issued on 23.05.2024 by granting only 4 days time to the petitioner for filing additional reply. In such case, this Court is of the view that the respondent should have provided a longer time to the petitioner for filing the reply.

8. Further, 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. In such view of the matter, this Court is inclined to set aside the impugned order dated 27.05.2024 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 27.05.2024 is set aside and the matter is remanded to the respondent for fresh consideration.
>
> (ii) The respondent is directed to issue a 14 days clear notice to the petitioner and 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.

9. 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 State Tax Officer,
Chidambaram I, Assessment Circle,
Commercial Tax Department,
Tamil Nadu.

KRISHNAN RAMASAMY.J.,

nsa

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