IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2024

CORAM

THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.P.No.20993 of 2024
AND
W.M.P.Nos.22948 and 22949 of 2024

M/s.G.G.Enterprises,
Rep. by its Proprietor C.Devandiran,
No.21, K.S.G. Street,
Jagadevi Road,
Bargur,
Krishnagiri District- 635104. .. Petitioner

Vs

The Deputy State Tax Officer I,
Krishnagiri II Circle,
Krishnagiri – 635 001. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the connected records pertaining to the impugned proceedings of the Respondent herein made in reference No.GST 33BIPPD3999FIZY dated 30.11.2023 and quash the same as illegal and consequently direct the respondent herein pass an order afresh after affording the opportunity of personal hearing to the petitioner herein.

For Petitioner	:	Mr.Manoharan S Sundaram
For Respondents	:	Mr.J.N.C.Kaushik Additional Government Pleader (Tax)

O R D E R

Challenging the assessment order dated 30.11.2023, passed by the respondent and for a direction to the respondent to pass an order afresh, after affording the opportunity of personal hearing to the petitioner, this writ petition has been filed.

2. The learned counsel appearing for the petitioner submitted that the petitioner had received show cause notice and filed his reply. In the assessment order dated 30.11.2023, the respondent had stated that DRC-1A and DRC-1 notices were issued on 12.10.2023 and 16.11.2023, respectively and a personal hearing notice was also issued for the hearing on 30.11.2023. However, no such personal hearing notice was served on the petitioner and therefore, the assessment order dated 30.11.2023 passed by the respondent is in violation of principles of natural justice. The learned counsel further submitted that the petitioner is ready to deposit 10% of the disputed tax demand. Hence, the order passed by the respondent may be set aside.

3. The learned Additional Government Pleader appearing for the respondent submitted that it is not the case that personal hearing was not provided to the petitioner. However, he would fairly submit that if any order is

passed by this Court, the same will be complied with by the respondent.

4. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent and perused the materials placed before this Court.

5. It is not in dispute that the reply submitted by the petitioner to the show cause notice was not at all considered by the respondent. While it is the case of the petitioner that no notice of personal hearing was ever issued to the petitioner for the personal hearing fixed on 30.11.2023, it is the stand of the respondent that the petitioner was issued with a notice in respect of personal hearing to be held on 30.11.2023. Even assuming that the petitioner was served with the notice in respect of personal hearing to be held on 30.11.2023, it is beyond the ken of this Court as to how the respondent had passed the assessment order on the same day, *i.e.*, on the day when personal hearing was fixed, without considering the reply of the petitioner in toto, which is a clear violation of principles of natural justice. Hence, this Court is inclined to set aside the order dated 30.11.2023 passed by the respondent and accordingly, the same is set aside and the matter is remanded for reconsideration by the respondent, subject to the following conditions :

i. That the petitioner shall deposit 10% of the disputed tax demand, within a period of four (4) weeks from the date of receipt of a copy of this order.

ii. Thereafter, the respodent shall issue a physical notice of personal hearing to the petitioner and pass orders on merits and in accordance with law by giving due consideration to the reply already filed by the petitioner, within a period of four (4) weeks.

With the above directions, this writ petition is allowed. No costs. Connected W.M.P.s are closed.

09.08.2024

gya

Index : Yes/No
Neutral Citation : Yes/No

To

The Deputy State Tax Officer I,
Krishnagiri II Circle,
Krishnagiri – 635 001.

KRISHNAN RAMASAMY, J.

gya

W.P.No.20993 of 2024

09.08.2024