IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.08.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.21820, 21823 and 21826 of 2024
and
W.M.P.Nos.23807, 23809, 23812, 23813, 23816 & 23819 of 2024

M/s.Nature Ply and Laminates
Represented by its Proprietor Mr.Amit Dugar,
No.124/72, Choolai High Road,
Choolai, Chennai 600 112. ... Petitioner in all W.P.'s

Vs.

The Assistant Commissioner (ST)
Choolai Assessment Circle
No.10, II Floor, Palaniappa Building,
Greams Road, Chennai- 60006. ... Respondents in all W.P.'s

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 30/01/2024 in GSTIN 33AA1PD5301K2Z3/2018-19, GSTIN 33AA1PD5301K2Z3/2019-20 and GSTIN 33AA1PD5301K2Z3/2020-21 as illegal,arbitrary and in violation of principles of natural justice.

For Petitioner : Mr.C.Rekhakumari
(in all W.P.'s)

For Respondents : Ms.Amirtha Poonkodi Dinakaran
(in all W.P.'s) Government Advocate (Taxes)

COMMON ORDER

Since the issue involved and relief sought for in all these Writ Petitions are one and the same,they are taken up together and disposed of by the common order.

2. These writ petitions have been filed challenging the order dated 30.01.2024, passed by the respondent.

3. Ms.Amirtapoonkodi Dinakaran, learned Government Advocate (Taxes), 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.

4. The learned counsel for the petitioner would submit that show cause notices and impugned orders were uploaded under the head "Additional Notices and Orders" in the GST portal. The petitioner being a small concern, is not aware of the same and thus, failed to file their reply to the show cause notice in time. He came to know about the impugned orders only after he received intimation from the bank regarding attachment of his bank account. He further submitted that the Petitioner filed rectification petitions dated 29.02.2024 to rectify the impugned orders dated 30.01.2024 and the same was also rejected by the Respondent without affording them an opportunity of personal hearing, which is in violation of the principles of natural justice.

5. On the other hand, the learned Government Advocate(Taxes) would submit that the respondent uploaded the show cause notices in the GST Online Portal. But the petitioner failed to submit reply in time and therefore the impugned orders came to be passed.

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 made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Government Advocate (Taxes) has no serious objection.

7. Having regard to the fact that the impugned orders came to be passed without hearing the petitioner in violation of the principles of natural justice, and also considering the submissions made by the learned counsel on either side, this court passes the following order:-

> (i) The orders impugned herein are set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall 10% of the disputed demand (in each Assessment order) 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 orders 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.

8. Accordingly, these writ petitions are disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

13.08.2024

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

The Assistant Commissioner (ST)
Choolai Assessment Circle
No.10, II Floor, Palaniappa Building,
Greams Road, Chennai- 60006.

KRISHNAN RAMASAMY.J.,

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