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.No.21500 of 2024
and
W.M.P.Nos.23470 & 23472 of 2024

Tvl.Sakthi Precision,
Represented by its Proprietor G.Sudha,
No.11A, TMP Nagar, Sundarar Cross Street,
Padi, Chennai - 600 050. ... Petitioner

Vs.

State Tax Officer,
Padi Assessment Circle,
Integrated Commercial Taxes Building,
T.S.No.2, Government Farm Village,
Nandanam, Chennai - 600 035. ... 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 of the impugned order reference No.ZD331023209493V, dated 31.10.2023 passed by the respondent along with its consequential GST DRC-16 notice for attachment and sale of immovable property dated 10.07.2024 and quash the same as illegal, arbitrary, devoid of merits and against the principles of natural justice and law and further direct the respondent to permit the petitioner to make necessary corrections to the Form GSTR-3B for December 2017 and to re-do the assessment afresh after providing an opportunity of personal hearing as per the provisions of GST Act.

For Petitioner : Mr.S.Satheesh Kumar

For Respondent : Ms.Amirtha Poonkodi Dinakaran
Government Advocate (Taxes)

ORDER

This writ petition has been filed to quash the order dated 31.10.2023 passed by the respondent under Section 73 of the TNGST Act, 2017 / CGST Act, 2017 and the consequential notice for attachment of immovable property dated 10.07.2024; and direct the respondent to permit the petitioner to make necessary corrections to Form GSTR-3B for December 2017 and re-do the assessment afresh, after providing an opportunity of personal hearing as per the provisions of the GST Act.

2. Ms.Amirtha Poonkodi Dinakaran, learned Government Advocate (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 submits that the pre-assessment notice in DRC-01 and subsequent notices were uploaded in the "Additional Notices and Orders tab" on the GST portal. However, the

petitioner, being a small business concern, was unaware of the notices uploaded on the portal, and the Consultant also failed to inform them about the same, resulting in failure to file replies to the notices, within the stipulated time. While so, without providing any opportunity to the petitioner, the respondent passed the impugned order and notice, which are in violation of the principles of natural justice. The learned counsel would also submit that the petitioner has already deposited 10% of the tax on 13.03.2024. Stating so, the learned counsel prayed for appropriate orders in this writ petition.

5. Heard the learned Government Advocate (Taxes) appearing for the respondent, who made her submissions supporting the order impugned herein.

6. It is evident from the pleadings and the documents placed before this Court that the respondent passed the order and attachment notice, which are impugned herein, without hearing the petitioner and hence, the same are in violation of the principles of natural justice. It is also pertinent to mention at this juncture that the petitioner has already made the pre-deposit payment of 10% of the demand made by the respondent.

7. Therefore, this Court is of the opinion that it is just and necessary to provide an opportunity to the Petitioner to establish their case on merits and in accordance with law. Accordingly, the impugned order dated 31.10.2023 is set aside and the matter is remanded to the respondent for fresh consideration. Consequently, the attachment notice dated 10.07.2024 shall stand lifted. The petitioner shall file their reply/objection along with the required documents, if any, to the respondent within a period of two weeks from the date of receipt of a copy of this order. On filing of such reply/objection by the petitioner, the respondent shall consider the same after issuing a 14 days clear notice by fixing the date of personal hearing and thereafter pass appropriate orders on merits and in accordance with law, as expeditiously as possible.

8. With the above directions, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

12.08.2024

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

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To

The State Tax Officer,
Padi Assessment Circle,
Integrated Commercial Taxes Building,
T.S.No.2, Government Farm Village,
Nandanam, Chennai - 600 035.

KRISHNAN RAMASAMY.J.,
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