IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.21197 of 2024
and
WMP.Nos.23144 and 23145 of 2024

M/s.Sree Gokul's Build Mart Private Limited,
No.112/4, 112/2B,
Bangalore Main Road,
Salem- 636 012,
Represented by its Accounts Manager
Mr.V.Ramanan. ... Petitioner

Vs.

1. The State Tax Officer,
Roving Squad-II, Intelligence,
3rd Floor, Commercial Taxes Office Building,
Pitchard's Road,
Hasthampatty, Salem-7.

2. The Joint Commissioner (Intelligence),
Salem Division, Meyyanur,
Salem, Tamil Nadu 636005.

3. Commissioner of Commercial Taxes,
Commercial Taxes Department,
Commercial Taxes Complex, Pitchards Road,
Asthampatti, Salem 636 007.

4. State of Tamil Nadu,
Represented by its Secretary to Government,
Commercial Taxes and Registration Department,
Secretariat, Fort St. George, Chennai 600 009. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records in the impugned order in GSTIN:33ABDCS2901H1ZQ/2021-22, dated 15.05.2024 along with Form GST DRC-07 bearing Reference No.ZD3305240983846 dated 15.05.2024 in the files of the Respondent herein, quashing the same as void ab initio, without jurisdiction, arbitrary and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India and a direction to the Respondents to consider the submissions put forth by the Petitioner.

For Petitioner : Mr.S.Muthu Venkatraman

For Respondents : Mr.T.N.C. Kaushik
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned orders 15.05.2024, passed by the Respondents herein.

2. Ms.T.N.C.Kaushik, learned Additional Government Pleader (Taxes) takes notice on behalf of the respondents.

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 State Tax Officer and Deputy State Tax Officer conducted surprise inspection at the Petitioner's business premises and issued defect slips dated 06.11.2023, alleging ten defects, for which the Petitioner submitted a reply on 18.11.2023, despite the same, the Department issued a pre-intimation notice dated 23.01.2024. The Petitioner also sent a reply to the said notice on 30.01.2024, but the Department without considering the same issued show cause notice dated 04.03.2024, for which the Petitioner sent a reply on 04.04.2024. Thereafter, personal hearing notice was issued by the Department fixing the date of personal hearing on 30.04.2024, on which date the employee of the Petitioner appeared before the adjudicating authority and the personal hearing was adjourned without mentioning the date. While so, the 1st Respondent passed impugned order dated 15.05.2024, without considering the reply and without affording an opportunity of personal hearing to the Petitioner and therefore the impugned order passed is in violation of principles of natural justice and therefore prays to set aside the same.

5. On the other hand, the learned Additional Government Pleader (Taxes) would submit that the impugned orders came to be passed after

considering the reply filed by the Petitioner and also after affording an opportunity of personal hearing to the Petitioner.

6. Heard both sides. Perused the records.

7. In the present case, though it submitted by the learned counsel for the Respondents that an opportunity of personal hearing was provided to the Petitioner before passing impugned orders, the Petitioner submitted that one more opportunity of personal hearing may be granted, so that they can substantiate his case after going through the documents. In such view of the matter, this Court is inclined to set aside the impugned assessment orders 15.05.2024 passed by the 1st respondent. Accordingly, this Court passes the following order:-

> (i) The impugned orders dated 15.05.2024 are set aside and the matter is remanded back to the authority concerned.
>
> (ii) If the Petitioner intends to file their reply/objection, the same shall be filed along with the required documents, within a period of two weeks.

(iii) The Respondents shall pass appropriate orders, after providing an opportunity of personal hearing to the Petitioner and after considering the reply, if any filed by the Petitioner, as expeditiously as possible.

8. Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

19.08.2024

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

arr

KRISHNAN RAMASAMY.J.,

arr

To

1. The State Tax Officer,
   Roving Squad-II, Intelligence,
   3rd Floor, Commercial Taxes Office Building,
   Pitchard's Road,
   Hasthampatty, Salem-7.

2. The Joint Commissioner (Intelligence),
   Salem Division, Meyyanur,
   Salem, Tamil Nadu 636005.

3. Commissioner of Commercial Taxes,
   Commercial Taxes Department,
   Commercial Taxes Complex, Pitchards Road,
   Asthampatti, Salem 636 007.

4. State of Tamil Nadu,
   Represented by its Secretary to Government,
   Commercial Taxes and Registration Department,
   Secretariat, Fort St. George, Chennai 600 009

W.P.No.21197 of 2024
and
WMP.Nos.23144 and 23145 of 2024

19.08.2024