IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.21967 of 2024
and
W.M.P.Nos.23947 & 23948 of 2024

Sangeetha Parimala Selvan Leon ...Petitioner

Vs.

The Assistant Commissioner (ST)
Surapattu Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.318, Elephant Gate Bridge Road,
Chennai-600 003. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the Respondent in reference No. ZD3311230331345 dated 06.11.2023 for the F.Y. 2017-2018 and quash the same and a direction to the respondent to provide an opportunity to clarify the discrepancies for an appropriate adjudication of issue in accordance with law.

For Petitioner : Mr.R.Swarnavel

For Respondent : Mr.J.N.C.Kaushik
Additional Government Pleader (T)

ORDER

This Writ Petition has been filed by the petitioner challenging the order dated 06.11.2023 passed by the respondent for the financial year 2017-2018.

2. Mr.J.N.C.Kaushik, learned Additional Government Pleader (T), 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. Alleging that there is a mismatch of tax liability between GSTR-3B and GSTR-2A filed by the petitioner for the financial year 2017-2018, the respondent passed an impugned order 06.11.2023, demanding the payment of the differential amount with interest and penalty.

4. The learned counsel for the petitioner submitted that Show Cause Notice dated 23.07.2022 in Form DRC-01 raised on the petitioner in the GST common portal, as the petitioner was unaware of the same, he failed to respond the said Show Cause Notice. He submitted that even an impugned order was uploaded in the GST portal and the physical version of such order was not

served on the petitioner. Further, he would submit that, the petitioner has paid the entire tax amount in respect of the impugned assessment period. Hence, he sought for appropriate orders from this Court for affording an opportunity to the petitioner to present the case by way of filing a suitable reply and participate in the proceedings.

5. Mr.J.N.C.Kaushik, learned Additional Government Pleader (T) appearing for the respondent submitted that subject to the verification of the payment of entire disputed tax, this Court may remand the matter to the Authority concerned for passing appropriate orders.

6. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader for the respondent and perused the materials available on record.

7. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice was uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice

issued through the GST Portal and the original of the said show cause notice was not furnished to them. In such circumstances, this Court is of the view that the impugned order came to be passed without affording any opportunity of personal hearing to the petitioner to establish its case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

8. For the reasons stated above, this Court is inclined to set aside the impugned order dated 06.11.2023 passed by the respondent with the following directions:-

(i) The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration in respect of the impugned assessment year. Since the petitioner has paid the entire disputed tax, this Court is not inclined to impose any further condition.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks from the date of receipt of a copy of this order.

(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 for 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.

9. Accordingly, the Writ Petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

12.08.2024

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

To
The Assistant Commissioner (ST)
Surapattu Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.318, Elephant Gate Bridge Road, Chennai-600 003.

Krishnan Ramasamy,J.,
jd

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