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.21675 of 2024 &
W.M.P.Nos.23647 & 23648 of 2024

M/s.Mateshwari Auto Products,
Represented by its Proprietor Mrs.Bhamri,
476/3A, 3C, Keeranatham Village,
Coimbatore 641 035. ... Petitioner

Vs.

State Tax Officer,
O/o. The Assistant Commissioner (ST),
Annur Circle, Coimbatore 641 018.
... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned order dated 30.11.2023 bearing Reference No.33AQEPB6703D1ZK/2020-2021 and summary order in form DRC-07 bearing reference ZD3311231986666 dated 30.11.2023 passed by the respondent and quash the same as illegal.

For Petitioner : Mr.Athiban Vijay AK
For Respondent : Mr.J.N.C.Kaushik
Additional Government Pleader (Taxes)

ORDER

This Writ Petition has been filed challenging the impugned order dated 30.11.2023 along with the summary order in form DRC-07 passed by the respondent, the petitioner has filed the present Writ Petition.

2. Mr.J.N.C.Kaushik, learned Additional Government Pleader (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. Alleging that there is a mismatch of tax liability between GSTR-3B and GSTR-2A filed by the petitioner for the finanical year 2020-2021, the respondent passed an impugned order dated 30.11.2023, demanding the payment of the difference amount.

5. The learned counsel for the petitioner submitted that Show Cause Notice dated 10.03.2023 in Form DRC-01A raised on the

petitioner in the GST common portal under "Additional Notices and Orders Tab", as the petitioner was unaware of the same, he failed to respond the said Show Cause Notice. Even an impugned order was uploaded in the GST portal and the physical version of such order was not served on the petitioner. He further submits that, if an opportunity is provided and the petitioner would be able to substantiate his case and also he agrees to make a payment of 10% of the disputed tax demand in respect of the impugned assessment period.

6. The learned Additional Government Pleader (Tax) appearing for the respondent would submit that subject to the deposit of 10% of the disputed tax by the petitioner in respect of the impugned assessment period, this Court can consider and pass appropriate orders.

7. 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.

8. 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.

9. For the reasons stated above, this Court is inclined to set aside the impugned order dated 30.11.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of the disputed tax amount in respect of impugned assessment period within a period of four weeks and the setting aside of the impugned order 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 pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

10. 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

KRISHNAN RAMASAMY.J.,

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