IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.22251 of 2024
and
W.M.P.No.24234 of 2024

Tvl. Sivagangai Rice Mill,
Represented by its Partner Mr.A.K.Moorthy,
148, NA, Dharapuram Road,
Kangayam, Tiruppur,
Tamil Nadu-638 701. ...Petitioner

Vs.

The Assistant Commissioner,
Kangeyam, Tiruppur-III,
Tiruppur, Tamil Nadu. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records on the files of the Respondent in FORM GST DRC-07 with Reference No: ZD331223255413T dated 29.12.2023 along with detailed order in GSTIN: 33AATFS0738A1ZD/2017-18 dated 29.12.2023, for the tax period 01.07.2017 to 31.03.2018 and quash the same.

For Petitioner : Ms.S.Vishnupriya
for Mr.N.Prasad
For Respondent : Mr.J.N.C.Kaushik
Additional Government Pleader (Tax)

ORDER

This Writ Petition has been filed by the petitioner challenging the order dated 29.12.2023 passed by the respondent for the assessment period 2017-2018.

2. Mr.J.N.C.Kaushik, learned Additional Government Pleader (Tax), 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. The learned counsel for the petitioner submitted that Show Cause Notice dated 25.09.2023 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. Further, she 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. It is also submitted that, if an opportunity is provided, the petitioner would be able to substantiate his case and also he agrees to make a payment of 10% of the disputed tax in respect of the impugned assessment period.

4. Mr.J.N.C.Kaushik, learned Additional Government Pleader (Tax) appearing for the respondent would submit that subject to the deposit of 10% of the disputed tax in respect of the impugned assessment period, this Court can consider and pass appropriate orders.

5. 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.

6. 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.

7. For the reasons stated above, this Court is inclined to set aside the impugned order dated 29.12.2023 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 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.

8. Accordingly, the Writ Petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneou petition is closed.

12.08.2024

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

To
The Assistant Commissioner,
Kangeyam, Tiruppur-III,
Tiruppur, Tamil Nadu.

Krishnan Ramasamy,J.,
jd

W.P.No.22251 of 2024

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