IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.21868 of 2024
and
W.M.P.Nos.23865 & 23867 of 2024

RAIS ENTERPRISES,
Represented by its Partner Mrs.Razia Begum
No.25/1 and 25/2, Ground Floor,
Brindavan Street, West Mambalam,
Chennai 600 033. ...Petitioner

Vs.

The State Tax Officer,
(Formerly known as Commercial Tax Officer)
Ashok Nagar, Central-I, Chennai Central,
No.1, Greams Road,
Annex Building,
5th Floor,
Chennai-600 006. ... 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 of the respondent in DRC-07 Reference Number ZD330324121463W/2018-19 dated 20.03.2024 and quash the same.

For Petitioner : Ms.V.Vijayalakshmi
For Respondent : Mr.G.Nanmaran,
Special Government Pleader (Tax)

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorari to call for the records of the respondent in DRC-07 Reference Number ZD330324121463W/2018-19 dated 20.03.2024 and quash the same.

2. Mr.G.Nanmaran, learned Special Government Pleader (Tax), 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 case of the petitioner is that the petitioner-company namely, RAIS ENTERPRISES is engaged in the Business of Trading of Groceries & Super Market and allied. The petitioner-registered Taxable person is a "Registered Tax Payer" on the file of the respondent. Since the date of registration, the petitioner-Registered Taxable person has been filing monthly returns and remitting tax due thereon promptly as per the Tamil Nadu Goods

and Services Taxes Act, 2017. While things stood thus, the respondent had issued a notice viz., DRC-01 under Section 73 of the Act, on 20.01.2024, alleging that there is Mismatch of outward Liability between GSTR-1 VS GSTR 3B. Though the service of reminder notices dated 23.02.2024, 05.03.2024 and 11.03.2024 issued by the respondent, the petitioner could not file any reply, for the reason that the Partner of the petitioner-company who was taking care of all the statutory compliances was not well. Hence, the petitioner could not response to the said Show Cause Notice. Thereby, the respondent has proceeded to issue the impugned order, dated 20.03.2024. However, the petitioner was unaware of the issuance of demand order dated 16.04.2024 until the phone calls received from the respondent for recovery of tax. The petitioner was not aware of the impugned proceedings as the petitioner's consultant has failed to communicate about the proceedings. Aggrieved by the said impugned order dated 20.03.2024, the petitioner has filed the present Writ Petition.

5. The learned counsel for the petitioner submitted that, the petitioner would be able to establish their case, if an opportunity is provided and the petitioner also agrees to make a payment of 10% of the disputed tax demand in respect of the impugned assessment period.

6. The learned Special Government Pleader appearing for the respondent would submit that, subject to the deposit of 10% of the disputed tax demand 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 Special 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 issued through 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 their 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 20.03.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside on condition that the petitioner deposits 10% of the disputed tax amount in respect of the assessment year in question within a period of four weeks from the date of receipt of a copy of this order.

(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 issue a 14 days clear notice by fixing the date of 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.

10. With the above directions, this 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 State Tax Officer,
(Formerly known as Commercial Tax Officer)
Ashok Nagar, Central-I, Chennai Central,
No.1, Greams Road,
Annex Building,
5th Floor, Chennai-600 006.

Krishnan Ramasamy,J.,
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