IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.22569 of 2024 &
W.M.P.Nos.24586 to 24588 of 2024

Chandran Loganathan ... Petitioner

Vs.

1.The Deputy State Tax Officer-I,
Gudiyatham (East),
No.127, Gandhi Road, Nadupet,
Gudiyatham - 632 602.

2.The State Tax Officer,
Gudiyatham (East),
Gudiyatham - 632 602.

3.The Branch Manager,
Indian Overseas Bank,
42, Kosa Annamalai Street,
Gudiyatham - 632 602. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the first respondent order dated 20.12.2023 in reference No.GSTIN:33ABZPL0847Q1ZS/2017-18, dated consequential recovery notice dated 13.06.2024 in Form GST DRC-13 issued by the second respondent to the third respondent and to quash the same as it has been passed in violation of principles of natural justice.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mrs.K.Vasanthamala
Government Advocate (Taxes)

ORDER

This writ petition has been filed to quash the order of the first respondent dated 20.12.2023 and the consequential recovery notice dated 13.06.2024 in Form GST DRC-13 issued by the second respondent to the third respondent

2. Mrs.K.Vasantha Mala, learned Government Advocate (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 all notices/communications were uploaded under the "Additional Notices Column" in the GST portal. However, the petitioner, being a small business concern, was not aware of the notices uploaded on the GST portal, resulting in their failure to file a reply within the stipulated time. While so, without providing any opportunity to the petitioner, the respondent passed the impugned orders, which are in violation of the principles of natural justice.

5. On the other hand, the learned Government Advocate (Taxes) would submit that the respondent uploaded the notice for personal hearing in the GST Online Portal. But the petitioner failed to avail the said opportunity. He would further submit that now, the petitioner can very well present their case before Appellate Authority. Hence, she prayed for appropriate orders.

6. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 10% of the demand made by the respondent in the event of providing an opportunity to them to file their reply/objections along with the required documents to substantiate their claim, for which, the learned Government Advocate (Taxes) has no serious objection.

7. Having regard to the admitted fact that the impugned orders came to be passed without hearing the petitioner in violation of the principles of natural justice, and also considering the submissions made by the learned counsel on either side, this court passes the following order:-

(i) The orders impugned herein are set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay a 10% of the demand to the respondent within a period of four weeks from the date of receipt of a copy of this order and the setting aside of the impugned orders 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 after issuing a 14 days clear notice by fixing the date of personal hearing and thereafter pass appropriate orders on merits and in accordance with law, as expeditiously as possible.

8. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

13.08.2024

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

r n s

KRISHNAN RAMASAMY.J.,

r n s

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