IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23228 of 2024
& W.M.P.Nos.25398 & 25400 of 2024

Indian Pipes Private Limited,
Rep.by its Authorised Signatory: Bhavani,
No.27, Ground Floor, Kamaraj Colony,
Kodambakkam, Chennai 600 024.

... Petitioner

Vs.

The State Tax Officer,
(Formerly known as Commercial Tax Officer),
Kodambakkam: Central-III:Central,
No.1, PAPJM Annex Building,
4^{th} Floor, Greams Road,
Chennai 600 006.

... 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 respondent in DRC-07 Ref.No.ZD330424190445F/2018-19 dated 24.04.2024 and quash the same as arbitrary and illegal.

For Petitioner : Mr.S.Ramanan

For Respondent : Mr.G.Nanmaran,
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 24.04.2024 passed by the respondent.

2. Mr.G.Nanmaran, learned Special Government Pleader, 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 would submit that the respondent has issued the show cause notice stating that there were some discrepancies in the returns pertaining to the assessment year 2018-19, for which, the petitioner has filed a detailed reply, however, they were not in a position to produce the documents, which are sought for by the respondent. Thereafter, the reminder notices were also issued by the respondent, wherein, three dates, viz., 19.03.2024, 04.04.2024 and

08.04.2024, were scheduled for conducting the personal hearing.

4. He would fairly submit that the petitioner had appeared before the respondent only during the 1st date of personal hearing. Thereafter, as requested by the respondent, the petitioner sent all the relevant documents to the Email ID of the concerned Assessing Officer on 05.04.2024, due to which, they were under the impression that after perusal of the said documents, the respondent would have dropped the proceedings against the petitioner. In this regard, he had also produced a copy of the said email before this Court. However, without considering the said email sent by the petitioner, the impugned order came to be passed by the respondent on 02.04.2024. Hence, he would contend that the said impugned award, which was passed in violation of principles of natural justice, is liable to be set aside.

5. On the other hand, the learned Special Government Pleader appearing for the respondent would submit that though three opportunities of personal hearing were provided to the petitioner, the

petitioner has appeared the only during the first occasion and the subsequently, during the other 2 occasions, the petitioner has not appeared before the Assessing Officer. That apart, initially, the petitioner had not filed any relevant documents at the time of filing the reply dated 29.01.2024. Under these circumstances only, the assessing officer was constrained to pass the said impugned order. Hence, he requests this Court to pass appropriate orders.

6. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondent and also perused the materials available on record.

7. In the present case, upon perusal of the documents, it appears that for the show cause notice issued by the respondent, the petitioner has filed a detailed reply on 29.01.2024, however no relevant documents were filed along with the said reply as requested by the respondent. Thereafter, the reminder notices were issued by the respondent, wherein it has been stated that the personal hearing was scheduled to be held on 19.03.2024, 04.04.2024 and 08.04.2024. However, the petitioner had

appeared before the respondent only during the 1st date of personal hearing and not appeared for other two personal hearings.

8. Further, it was submitted that as requested by the respondent, the petitioner had sent all the relevant documents to the Email ID of the Assessing Officer. In this regard, he has also produced a photocopy of the said Email before this Court. In such case, it is clear that though documents were sent to the Email ID of the Assessing Officer, the same was not considered by the respondent. According to the petitioner, since they had already sent all the relevant documents, they were under the impression that upon perusal of the documents, the respondent would have dropped the entire proceeding against the petitioner. Under these circumstances, the impugned order came to be passed without even considering the reply filed by the petitioner, which is violation of principles of natural justice and hence the said impugned order is liable to be set aside.

9. Therefore, this Court is of the view that the justice has to be rendered to the petitioner by providing an opportunity to the petitioner to

submit all the relevant documents, in which case, the respondent has to consider the same while passing the impugned order. In such view of the matter, this Court is inclined to set aside the impugned order and remit the matter back to the respondent for re-consideration. Accordingly, this Court passes the following orders:

> (i) The impugned order dated 24.04.2024 is set aside and the matter is remanded to the respondent for fresh consideration.
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> (ii) The petitioner shall file a hard copy of their reply/objection along with the required documents, if any, within a period of two weeks from the date of receipt of 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 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. No

costs. Consequently, the connected miscellaneous petitions are also closed.

16.08.2024

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

The State Tax Officer,
(Formerly known as Commercial Tax Officer),
Kodambakkam: Central-III:Central,
No.1, PAPJM Annex Building,
4th Floor, Greams Road,
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KRISHNAN RAMASAMY.J.,
nsa

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