IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23056 of 2024
and
W.M.P.No.25147 of 2024

M/s.Lalith Electricals,
Represented by its Proprietor,
Mr.Manoharmal Mukesh Jain,
Office at No.101, D.B.Road,
R.S.Puram, Coimbatore,
Tamil Nadu 641 002
GSTIN: 33AKZPM3892K1Z9

... Petitioner

Vs.

Assistant Commissioner (ST)(FAC),
R.S.Puram, Assessment Circle,
4th Floor, Commercial Taxes Department,
Dr.Balasundaram Road, ATT Colony,
Gopalapuram, Pappanaickenpalayam,
Coimbatore 641 018

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to Order in Form DRC-07 under Section 73 with Ref.No.ZD331123169057M – Office of: Assistant Commissioner dated 27.11.2023 passed by the respondent and quash the same and direct the respondent to pass a fresh order after providing opportunity of being heard to the petitioner under Section 73 of the Tamil Nadu Central Goods and Services Tax Act, 2017 on the shortfall of tax payments in GSTR-3B against the outward supplies as declared in GSTR1 Returns for Rs.7,70,334/- during the period July 2017 to March 2018.

For Petitioner : Mr.Sanjay Rajpurohit

For Respondent : Ms.K.Vasanthamala,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned proceedings dated 27.11.2023 passed by the respondent.

2. Ms.K.Vasanthamala, learned Government Advocate, 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 petitioner has duly filed the returns for the period from July 2017 to March 2018. Thereafter, the petitioner's GST Registration was cancelled with effect from 24.09.2021, due to which, the petitioner has not monitored the GST Portal since then. At this juncture, all notices/communications were uploaded by the respondent under the column, viz., "View Additional Notices and Orders", in the GST portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner.

4. On the other hand, the learned Government Advocate would submit that the respondent has uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she

requested this Court to remit the matter back to the respondent, subject to the payment of 10% of the disputed amount by the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

6. In the present case, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice. In such view of the matter, this Court is inclined to set aside the impugned order dated 27.11.2023 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 27.11.2023 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed amount to the respondent within a period of two weeks from today (06.08.2024) 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.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

08.08.2024

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

KRISHNAN RAMASAMY.J.,

nsa

To

The Assistant Commissioner (ST)(FAC),
R.S.Puram, Assessment Circle,
4th Floor, Commercial Taxes Department,
Dr.Balasundaram Road, ATT Colony,
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