IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.08.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.23102 of 2024
and
W.M.P.Nos.25217 & 25219 of 2024

Jimsam Tea Equipment (P) Limited,
Represented by its Director
R.Jayachandran
5C-2 Athipalayam Road,
Chinnavedampatti,
Coimbatore 641 006. ...Petitioner

Vs.

The State Tax Officer (ST),
Avarampalayam Circle,
Coimbatore-III,
Coimbatore. ... 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 herein in GSTIN/33AAACJ8948B1ZP/2017-18 in GST DRC-07 proceedings dated 23.12.2023 and quash the same.

For Petitioner : Mr.R.Vasumithran

For Respondent : Mr.G.Nanmaran
Special Government Pleader

ORDER

This Writ Petition has been filed by the petitioner challenging the order dated 23.12.2023 passed by the respondent for the Assessment Year 2017-2018.

2. Mr.G.Nanmaran, learned Special Government Pleader (Taxes) 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 learned counsel for the petitioner submits that show cause notice was uploaded under the head "Additional Notices and Orders" tab in the GST portal and therefore is not aware of the same and thus, failed to file their reply to the show cause notice in time. While so, without providing any opportunity to the petitioner, the respondent passed the impugned order dated 23.12.2023 and the same was also uploaded in "Additional Notices and Orders" tab and therefore the Show Cause Notice as well as the impugned assessment order are passed in violation of the principles of natural justice. He further submits 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 demand in respect of the impugned assessment period.

5. The learned Special Government Pleader 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.

6. 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.

7. 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.

8. For the reasons stated above, this Court is inclined to set aside the impugned order dated 23.12.2023 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 a 10% of the disputed tax 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 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 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.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment of the petitioner's Bank account cannot survive any longer and hence, it is ordered to be lifted. The respondent is directed to instruct the Bank to de-freeze the petitioner's Bank account immediately upon the production of a copy of this order, in case if the petitioner's Bank account is attached.

9. With the above directions, the Writ Petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

14.08.2024

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

To
The State Tax Officer (ST),
Avarampalayam Circle,
Coimbatore-III,
Coimbatore.

Krishnan Ramasamy,J.,
jd

W.P.No.23102 of 2024

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