IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23498 of 2024
& W.M.P.Nos.25689 & 25691 of 2024

MATCON IMPEX,
Rep by its Managing Partner, Lakshmipathi,
No.21 & 22, KDR Industrial Land,
Poothurai Village, Vanur Taluk.

... Petitioner

Vs.

1.The State Tax Officer,
Tindivanam Assessment Circle,
Villupuram Zone, Cuddalore Division.

2.State Tax Officer (Audit-2),
Joint Commissioner Office,
Cuddalore.

... 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 culminating into 1st respondent's order dated 29.04.2024 in GSTIN: 33AAWFM9907E1ZV/2018-19 and quash the same.

For Petitioner	:	Mr.Adithya Reddy
For Respondent	:	Mr.V.Prashanth Kiran, Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 29.04.2024 passed by the 1st respondent.

2. Mr.V.Prashanth Kiran, 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 in the present case, the show cause notice dated 26.12.2023 was issued by the respondent. After the issuance of show cause notice, the detailed reply was filed by the petitioner along with the other relevant documents on 04.03.2024. Thereafter, though the petitioner opted for personal hearing in the online portal, without providing personal hearing, the respondent

passed the impugned order dated 29.04.2024.

4. Further, he would submit that in the portal, when the petitioner click 'Yes' for the column 'Option for Personal Hearing', it appears as 'Yes' but in the print out taken, it has been shown as the option as 'No'. Therefore, he would contend that without providing an opportunity of personal hearing, the impugned order was passed in violation of principles of natural justice and the same is liable to be set aside. Thus, the present writ petition.

5. Per contra, learned Government Advocate appearing for the respondent by referring to the print out filed by the petitioner would submit that in the reply, the petitioner opted 'No' in the column 'Option for Personal Hearing' and therefore no opportunity of personal hearing was provided. Further, he would submit that some time, due to the technical glitch, when an Assessee click 'Yes', though it shows as 'Yes' in the portal, it will go to 'No'. Therefore, he requests this Court to pass appropriate orders and remit this matter back to the respondent for re-consideration.

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

7. In the present cases, show cause notice dated 26.12.2023 has been issued and the petitioner also filed reply dated 04.03.2024 specifically requesting for personal hearing and opted for 'Yes' but the print out of Form shows that the option 'No' was selected. Therefore, the petitioner was deprived of the right of personal hearing. Section 75(4) of GST Act mandates that an opportunity of hearing should be granted even if the respondent intends to pass an adverse order against the petitioner.

8. In the present cases, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned orders. Hence this Court is of the view that the impugned orders were passed in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish its case on merits. In such view of the matter, this Court is inclined to set aside

the impugned order dated 29.04.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 29.04.2024 is set aside and the matter is remanded to the respondent for fresh consideration.

(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.

9. 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

1.The State Tax Officer,
Tindivanam Assessment Circle,
Villupuram Zone, Cuddalore Division.

2.State Tax Officer (Audit-2),
Joint Commissioner Office,
Cuddalore.

KRISHNAN RAMASAMY.J.,
nsa

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