IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.08.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.23125 of 2024 and
W.M.P.Nos.25252 & 25255 of 2024

Tvl. PMP Steels,
GSTIN:33AAJFP4384P1ZL,
Represented by its Partner M.Palanivel,
230/1, Lakshmi Street, Srinivasa Nagar,
Upplipalayam, Coimbatore 641 015. ...Petitioner

Vs.

The Assistant Commissioner (ST)(FAC),
Singanallur (North) Assessment Circle,
Dr.Balasundaram Road, Coimbatore-641 018. ... 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 pertaining to the impugned order in Form GST DRC-07 bearing reference number ZD330224044084/2018-19 dated 08.02.2024 issued by the respondent and quash the same.

For Petitioner : Mr.C.Derrick Sam

For Respondent : Mr.C.Harsha Raj,

Additional Government Pleader

ORDER

This writ petition has been filed to quash the order in Form GST DRC-07, dated 08.02.2024 passed by the respondent.

2. Mr.C.Harsha Raj, learned Additional 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 main contention of the learned counsel for the petitioner is that the final notice dated 25.01.2024 directing the petitioner to furnish the documents with reply and to appear for hearing on 01.02.2024 were not served as per Section 169, but only uploaded in the GST Portal under "view additional notices and orders". If other modes of service of notices under section 169 of the TNGST Act/ CGST Act were followed, the petitioner could very well participated in the proceedings. Thus, according to the learned counsel, the respondent has not provided sufficient opportunity to the petitioner to defend

their case and has passed the order impugned herein, in violation of the principles of natural justice. The learned counsel further submitted that the petitioner is now ready and willing to pay 15% of the disputed tax 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.

5. On the other hand, the learned Additional Government Pleader (Taxes) would submit that the respondent uploaded the notice in the GST Online Portal thereby directing the petitioner to file their reply and appear for personal hearing and only thereafter, passed the order impugned herein. However, the learned counsel has no objection for granting relief subject to certain terms.

6. Having regard to the admitted fact that the impugned order came to be passed without providing sufficient opportunity to the petitioner to file their objections along with documentary evidence and hence, the same is 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 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 15% 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 after issuing a 14 days clear notice by fixing the date for personal hearing and thereafter pass appropriate orders on merits and in accordance with law, as expeditiously as possible.

7. Accordingly, 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 Assistant Commissioner (ST)(FAC),
Singanallur (North) Assessment Circle,
Dr.Balasundaram Road, Coimbatore-641 018.

Krishnan Ramasamy,J.,
jd

W.P.No.23125 of 2024

14.08.2024