IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23342 of 2024
and
W.M.P.Nos.25613 & 25614 of 2024

M/s.Sibas Ultrasonic's Private Limited,
Rep by its Managing Director,
Sri.B.Ganesh Kumar,
No.206, SIDCO Industrial Estate,
Thirumudivakkam, Chennai 600 044.

... Petitioner

Vs.

The Assistant Commissioner (ST),
Thirumudivakkam Assessment Circle,
3rd Floor, Room No.344,
The Integrated Building for
Commercial Tax & Registration Department (South Tower),
Nandanam, Chennai 600 035.

... 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 of the respondent herein in GSTIN: 33AAVCS2479P1ZC/2018-

19 and quash the proceeding dated 21.03.2024 passed therein and further direct the respondent to afford personal hearing to the petitioner before passing any order of assessment.

For Petitioner : Mr.B.Raveendran

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 21.03.2024 passed by the 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 initially the respondent issued a notice for the assessment year 2018-19, for which the petitioner filed reply along with the supporting documents. Thereafter, 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 were unable to appear before the respondent for personal hearing. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. On the other hand, the learned Government Advocate appearing for the respondent would submit that the respondent has uploaded the notices in the GST Online Portal. But the petitioner failed to appear for personal hearing. Further, he would contend that though the petitioner filed reply, he has not appeared before the respondent for personal hearing, which is the fault of the petitioner. Therefore, he requested this Court to pass appropriate orders.

5. At this juncture, the learned counsel for the petitioner voluntarily came forward and submit that the petitioner is willing to pay 15% of the demand amount and hence, he requests this Court to set aside

the impugned order and remand the matter back to the respondent for fresh consideration.

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

7. In the present case, it appears that the petitioner had failed to avail the opportunity of personal hearing provided by the respondent, prior to the passing of impugned order. In such case, though the fault is on the part of the petitioner, considering the submissions made by the petitioner with regard to the payment of 15% of the demand amount to the respondent and in the interest of justice, this Court is inclined to set aside the impugned order dated 21.03.2024 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 21.03.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 15% of demand amount to the respondent within a

period of four weeks from today (13.08.2024) 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 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.

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

13.08.2024

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

KRISHNAN RAMASAMY.J.,

nsa

To

The Assistant Commissioner (ST),
Thirumudivakkam Assessment Circle,
3rd Floor, Room No.344,
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