IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23553 of 2024
and
W.M.P.Nos.25768 & 25769 of 2024

M/s.Welcome Electricals,
Rep by its Proprietor,
Mr.L.S.Loganathan,
No.60/5, Ethirajaswamy Salai,
Erukkancherry, Kodungaiyur,
Chennai 600 118.

... Petitioner

Vs.

The State Tax Officer,
Kondungaiyur Assessment Circle,
No.32, Commercial Tax Office Complex,
Elephant Gate Bridge Road,
Chennai 600 003.

... 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 the impugned proceedings of the respondent herein made in Ref.No.GST: 33ABZPL7099N2ZF/2018-19 dated21.03.2024 and quash the same as illegal and consequently direct the respondent herein to pass an order afresh after affording opportunity of personal hearing to the petitioner herein.

For Petitioner : Mr.Manoharan Sundaram

For Respondent : Mr.G.Nanmaran,
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 21.03.2024 passed by the respondent.

2. Mr.G.Nanmaran, learned Special Government Pleader 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 all notices/communications were uploaded by the respondent 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. Hence, this petition has been filed. Further, he requests this Court to lift the bank attachment order dated 26.06.2024 passed by the respondent.

4. On the other hand, the learned Special Government Pleader appearing for the respondent would submit that the respondent has uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he 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 Special Government Pleader 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 and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, 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 10% of disputed amount to the respondent within a period of four weeks from today (20.08.2024) 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.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner, vide attachment order dated 26.06.2024, cannot survive any longer and hence, it is lifted. As a sequel, the respondent is directed to instruct the concerned Bank to release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 10% of the demand amount by the petitioner as stated above.

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

20.08.2024

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

To

The State Tax Officer,
Kondungaiyur Assessment Circle,
No.32, Commercial Tax Office Complex,
Elephant Gate Bridge Road,
Chennai 600 003.

KRISHNAN RAMASAMY.J.,

nsa

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