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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23947 of 2024 &
W.M.P.Nos.26205 and 26207 of 2024

Tvl.Jai Sakthi Traders,
(Represented by its Proprietor kandasamy Ramalingam)
2/15, Karattupalayam, Pollachi
Coimbatore, Tamilnadu-642 123. ... Petitioner

Vs.

The Assistant Commissioner (ST)(FAC)
Pollachi Rural,
Commercial Taxes Buildings,
Palghat Road, Pollachi 642 001. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to impugned order bearing GST IN:33AEJPR1326P2Z5/2017-2018 dated 26.12.2023 along with summary order in Form DRC-07 passed by the Respondent and quash the same.

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For Petitioner : Mr. P.Gowtham

For Respondent : Mr.G.Nanmaran
Special Government Pleader (Taxes)

ORDER

This writ petition has been filed by the petitioner challenging the impugned order along with summary order dated 26.12.2023 passed by the Respondent.

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 would submit that initially the Respondent issued show cause notice to the Petitioner on 19.09.2023, followed by additional notice on 08.11.2023, for which the Petitioner submitted a reply on 18.11.2023. Subsequently, the Respondent issued another notice dated 22.11.2023 seeking further

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documents for verification. The Petitioner also replied to the said notice and uploaded all required documents on 12.12.2023, but the Respondent without considering the said reply as well as the documents filed by the Petitioner, had proceeded to pass the impugned assessment order as well as the summary order dated 26.12.2023, Further, he would submit that the respondent has not discussed about the reply as well as the documents submitted by the Petitioner in the impugned assessment order and therefore the assessment order along with summary order is liable to be set aside.

5. The learned Speical Government Pleader (Taxes) appearing for the Respondent fairly admitted that though in the impugned assessment order, the Respondent has mentioned about the reply, they have not discussed anything about the said reply and hence prays for appropriate orders.

6. Heard the learned counsel for the petitioner and the learned Special Government Pleader (Taxes) for the respondent and also perused the materials available on record.

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7. A perusal of the impugned order would go to show that though the impugned order was passed mentioning about the reply filed by the Petitioner dated 12.12.2023, there is no discussion with respect to the same. The Respondent has simply stated that ***'The Tax payers had filed a reply and not paid the tax amounts as stated in their reply'***. 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 orders dated 26.12.2023 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned orders dated 26.12.2023 are set aside and the matter is remanded to the Respondent for fresh consideration.

(ii) The Respondent is directed to provide an opportunity of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law after considering the replies filed by the Petitioner dated 18.11.2023 and 12.12.2023, on

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merits and in accordance with law, 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.

21.08.2024

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

To

The Assistant Commissioner (ST)(FAC)
Pollachi Rural,
Commercial Taxes Buildings,
Palghat Road, Pollachi 642 001.

KRISHNAN RAMASAMY.J.,

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