IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23767 of 2024
and
W.M.P.Nos.26005 & 26006 of 2024

Airtech Systems and Services,
Rep by its Proprietor Mr.Jaganathan,
No.1, AP Arasu, Third Street, Nehru Nagar,
Errukenchery,
Chennai 600 118.

... Petitioner

Vs.

The State Tax Officer,
(Formerly known as Commercial Tax Officer),
Kodungaiyur:Avadi:Tiruvallur,
Integrated Commercial Taxes Complex,
32, 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 Certiorari, to call for the records relating to the impugned order in Ref.No.ZD330324004498L/2018-19 dated 01.03.2024 passed by the respondent and the consequential rejection order bearing Ref.No.ZD330624115729A/2018-19 dated 13.06.2024 passed by the respondent and quash the same.

For Petitioner : Ms.V.Vijayalakshmi

For Respondent : Ms.K.Vasanthamala,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 13.06.2024 passed by the respondent.

2. Ms.K.Vasanthamala, 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 and reminder notice were issued by the respondent, however, since the Authorized person, who is taking care of the statutory compliance was not well, the petitioner was not in a

position to file their reply within the time. Under these circumstances, the assessment order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Aggrieved over the said assessment order, the petitioner filed a rectification application along with relevant documents, however, the respondent had simply rejected the said rectification application vide impugned order dated 13.06.2024 without providing any reasonable opportunity. Hence, this petition has been filed.

4. On the other hand, the learned Government Advocate appearing for the respondent would submit that though the show cause notice and reminder notices were issued by the respondent, the petitioner had failed to avail the said opportunity. Further, she 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 Government Advocate for the respondent and also perused the materials available on record.

6. In the present case, it appears that a rectification application was filed by the petitioner along with all the relevant documents, which are supposed to be considered by the respondent while passing the assessment order. However, the respondent has passed the impugned rejection order without even considering the aforesaid documents filed by the petitioner. Therefore, this Court feels that it would be appropriate to provide an opportunity to the petitioner to establish his case before the respondent. That apart, it appears that the assessment order itself was passed in violation of principles of natural justice without providing any opportunity of personal hearing to the petitioner. In such view of the matter, this Court is inclined to set aside the assessment order dated 01.03.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The assessment order dated 01.03.2024 itself 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.

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,
(Formerly known as Commercial Tax Officer),
Kodungaiyur:Avadi:Tiruvallur,
Integrated Commercial Taxes Complex,
32, Elephant Gate Bridge Road,
Chennai 600 003.

KRISHNAN RAMASAMY.J.,

nsa

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