IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24402 of 2024
& W.M.P.Nos.26677 & 26678 of 2024

Mr.Enayathula,
Proprietor of Tvl.Salar and Sons,
50, Mullai Nagar, Prithvimangalam Road,
Prithvimangalam, Villupuram,
Tamil Nadu 606 206.

... Petitioner

Vs.

The State Tax Officer,
also known as Commercial Tax Officer,
Tirukoilur-Kallakurichi-Cuddalore,
TamilNadu 605757

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the files of the respondent herein, in GSTIN 33AAKPE2562R1ZE/2019-20 dated 30.01.2024 along with Form GST DRC-07 in Ref.No.ZD330124144774K dated 30.01.2024 for the tax period between April 2019 to March 2020 and quash the same.

For Petitioner : Mr.C.Bosco

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

ORDER

This writ petition has been filed challenging the impugned order dated 30.01.2024 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 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 failed to file their reply within the time. Under these circumstances, the impugned order dated 30.01.2024 came to be passed by the respondent without

providing any opportunity of personal hearing to the petitioner. Hence, he requests this Court to pass appropriate orders by granting an opportunity to the petitioner to present their case before the respondent.

4. In reply, the learned Government Advocate appearing for the respondent would submit that though all the notices were duly uploaded by the respondent, the petitioner has only failed to avail the opportunity and hence, the impugned order came to be passed by the respondent. Further, he would submit that since the impugned order was passed only on 30.01.2024, still the petitioner can very well file the appeal against the said impugned order before the concerned Authority. Hence, he requests this Court to pass appropriate orders.

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 the notices were duly uploaded by the respondent. However, the petitioner had failed to file their reply before the respondent. Under these circumstances, the impugned assessment order came to be passed by the respondent on 30.01.2024.

7. Further, as submitted by the learned Government Advocate, since the impugned assessment order was passed only on 30.01.2024, still the petitioner can very well avail the alternate remedy available to them by filing an appeal against the impugned assessment order before the concerned Appellate Authority. In such view of the matter, this Court is inclined to direct the petitioner to file an appeal against the impugned assessment order. Accordingly, this Court passes the following order:

> (i) The petitioner is directed to file an appeal against the assessment order dated 30.01.2024, before the concerned Appellate Authority, within a period of 30 days from the date of receipt of a certified copy of this order.
>
> (ii) In such case, the Appellate Authority shall consider the said appeal filed by the petitioner on its own

merits and in accordance with law by providing sufficient opportunity to the petitioner.

(iii) Considering the fact that the petitioner has already remitted a sum of Rs.7,38,918/- and an amount to an extent of Rs.9,11,618/-, was already reversed by the respondent, the respondent/Appellate Authority is directed not to insist the petitioner to pay 10% of the mandatory deposit for filing appeal.

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

27.08.2024

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

To

The State Tax Officer,
also known as Commercial Tax Officer,
Tirukoilur-Kallakurichi-Cuddalore,
TamilNadu 605757

KRISHNAN RAMASAMY.J.,

nsa

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