IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23932 of 2024 &
W.M.P.Nos.26184, 26185 & 26186 of 2024

Sri SivaSakthi Steel Builder
C-25, SIDCO Industrial Estate Mettur Dam RS-2,
Mettur Taluk, Salem Tamil Nadu - 636 402.
(Represented by Proprietor Natesan SivaSakthi) ... Petitioner

Vs.

State Tax Officer (FAC),
Mettur Assessment Circle,
Mettur. ... 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 in impugned order issued vide Reference No.ZD3312232670111, dated 29.12.2023 and quash the same and consequently direct the respondent to grant sufficient opportunity of being heard and decide in accordance with law.

For Petitioner : Ms.Anu Viswanath

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader (Taxes)

ORDER

This writ petition has been filed to quash the order dated 29.12.2023 passed by the respondent under Section 73 of the TNGST Act, 2017 and for a direction to the respondent to grant sufficient opportunity of being heard.

2. Mr.C.Harsha Raj, learned Additional 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 submits that all notices/communications were uploaded under the "Additional Notices Column" in the GST portal. However, the petitioner, being a small business concern, was not aware of the notices uploaded on the GST portal, resulting in their failure to file a reply within the stipulated time. While so, without providing any opportunity to the petitioner, the respondent passed the impugned order, which is in violation of the principles of natural justice.

5. On the other hand, the learned Additional Government Pleader Taxes) would submit that the respondent uploaded the notice for personal hearing in the GST Online Portal. But the petitioner failed to avail the said opportunity. He would further submit that now, the petitioner can very well present their case before Appellate Authority. Hence, he prayed for appropriate orders.

6. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 10% of the demand made by the respondent in the event of providing an opportunity to them to file their reply/objections along with the required documents to substantiate their claim, for which, the learned Additional Government Pleader (Taxes) has no serious objection.

7. Having regard to the admitted fact that the impugned order came to be passed without hearing the petitioner in violation of the principles of natural justice, and also considering the submissions made by the learned counsel on either side, this court passes the following order:-

(i) The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay a 10% of the demand to the respondent within a period of four weeks from the date of receipt of a copy of this order 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 after issuing a 14 days clear notice by fixing the date of personal hearing and thereafter pass appropriate orders on merits and in accordance with law, as expeditiously as possible.

8. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

20.08.2024

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

r n s

To

State Tax Officer (FAC),
Mettur Assessment Circle,
Mettur.

KRISHNAN RAMASAMY.J.,

r n s

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