IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24373 of 2024
& W.M.P.Nos.26631 & 26632 of 2024

M/s.Manakula Vinayagar Technologies Private Limited,
Rep by its Director,
Mr.M.Dhanasekaran,
No.54, Meenatchi Street,
Villupuram 605 602

... Petitioner

Vs.

1.The State Tax Officer (Intelligence),
Inspection 2,
Office of the Joint Commissioner (ST) (Intelligence),
Cuddalore Division, Cuddalore.

2.The State Tax Officer (Intelligence),
Legal and Revision I, Vellore.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned proceedings of the 1st respondent in GSTIN 33AAGCM8851L1Z1/2022-23 dated

27.03.2024, the order under Section 74 and the Summary of the order in Form GST DRC-07 dated 27.03.2024 issued in Ref.No.ZD33032418286D and quash the impugned orders as passed contrary to the provisions of the CGST/TNGST Act, 2017 and also in violation of principles of natural justice and also barred by limitation as the impugned assessment has been passed only Section 73 of the CGST/TNGST Act, 2017.

For Petitioner : Mr.P.Rajkumar

For Respondent : Ms.Amirta Poonkodi Dinakaran, Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 27.03.2024 passed by the 1st respondent.

2. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate, takes notice on behalf of the respondents. 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 and their Consultant were 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 1st respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. On the other hand, the learned Government Advocate appearing for the respondents would submit that the respondent has uploaded the notices in the GST Online Portal. But the petitioner 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, she requested this Court to remit the matter back to the respondent, subject to the payment of 10% of the disputed tax amount by the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents 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 since 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 27.03.2024 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 27.03.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax amount to the respondent within a period of four weeks from today (27.08.2024) 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.

27.08.2024

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

KRISHNAN RAMASAMY.J.,

nsa

To

1.The State Tax Officer (Intelligence),
Inspection 2,
Office of the Joint Commissioner (ST) (Intelligence),
Cuddalore Division, Cuddalore.

2.The State Tax Officer (Intelligence),
Legal and Revision I, Vellore.

W.P.No.24373 of 2024
& W.M.P.Nos.26588 & 26591 of 2024

27.08.2024
(4/4)