IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.08.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24174 of 2024 &
W.M.P.Nos.26483 of 2024 & 26435 of 2024

Tvl,Sathyamoorthy ... Petitioner

Vs.

The State Tax Officer,
Tamil Nadu Commercial Taxes Department,
No.299, Bhawani Road,
Perundurai Assessment Circle,
Perundurai-638 052. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to call for the records of the Respondent herein in its impugned order passed by the Respondent in the order passed with GSTIN:33EJSPS9896D1ZC/2017-18 dated 21.12.2023 along with consequential order U/s 73 with Ref:ZD331223163401Z dated 21.12.2023 for the period 2017-18.

For Petitioner : Ms.R.Hemalatha

For Respondent : Mr.T.N.C.Kaushik, (Taxes)
Additional Government Pleader

ORDER

This writ petition has been filed by the petitioner challenging the orders of the Respondent dated 29th December 2023, for the tax period July 2017 to March 2018.

2. Mr.T.N.C.Kaushik, 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 show cause notice and the personal hearing notice were uploaded in the GST portal and since the accountant of the Petitioner had not brought to the knowledge of the petitioner about the said notices, the Petitioner is not aware of the same and thus, failed to file their reply to the show cause

notice in time. While so, without providing any opportunity to the petitioner, the respondent passed the impugned orders dated 21.12.2023, demanding tax along with penalty and interest for the Assessment Year 2017-2018 and therefore the impugned assessment order is passed in violation of the principles of natural justice and therefore he prays to set aside the impugned order.

5. On the other hand, the learned Additional Government Pleader (Taxes) would submit that the respondent uploaded the show cause notice and the personal hearing notice in the GST Online Portal. But the petitioner failed to submit reply in time and also failed to appear before the authority to substantiate his case and therefore the impugned assessment order came to be passed.

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 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 fact that the impugned orders 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 deposit 10% of the disputed tax 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 orders 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.

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

13.08.2024

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

The Tamil Nadu Commercial Taxes Department,
No.299, Bhawani Road,
Perundurai Assessment Circle,
Perundurai-638 052.

KRISHNAN RAMASAMY.J.,

arr

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