IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.09.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.25272 of 2024 &
W.M.P.Nos.27609 & 27610 of 2024

Ideal Textiles,
Rep. by its proprietor,
Mr.Prakash,
No.17/99-B6,
Sarathambal Nagar,
Karumathmapatti, Sulur Taluk,
Tamil Nadu-641 659. ...Petitioner

Vs.

The Assistant Commissioner (ST),
Karumathampatti Assessment Circle,
Dr.Balasundaram Road, ATT Colony,
Gopalapuram, Pappanaickenpalayam,
Coimbatore. ... Respondent

Prayer : This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the respondent proceedings in GSTIN33BDPPP5049H1Z8 dated 27.04.2024 financial year (2018-2019) and quash the same.

For Petitioner : Mr.D.Vijayakumar
for Ms.A.Anuradha
Mrs.A.Anuradha

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

ORDER

This Writ Petition has been filed by the petitioner challenging the impugned order dated 27.04.2024 passed by the respondent for the financial year 2018-2019.

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 time of admission stage itself.

4. Alleging that there are certain discrepancies in the tax liability filed by the petitioner for the assessment year 2017-2018, the respondent passed an impugned order dated 27.04.2024, demanding the payment of differential amount in respect of the impugned assessment period.

5. The learned counsel for the petitioner submitted that the respondent issued a show cause notice dated 22.09.2023 to the petitioner through GST portal, for which, the petitioner represented in person and submitted their

explanations in writing vide letter dated 20.10.2023. Pursuant to the submission of petitioner's explanation, the respondent informed that they would send another notice for further enquiry. However, the respondent uploaded a personal hearing notice in the Web portal, as the petitioner was unaware of the said notice, the petitioner failed to appear before the respondent to substantiate its case, thereby, the present impugned order came to be passed by the respondent. Hence, he sought for appropriate orders from this Court for affording an opportunity to the petitioner to present the case before the respondent and participate in the proceedings. It is also submitted that, if an opportunity is provided, the petitioner would be able to substantiate its case and also he agrees to make a payment of 10% of the disputed tax demand in respect of the impugned assessment period.

6. Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes) appearing for the respondent submitted that subject to the payment of 10% of the disputed tax, this Court may remand the matter to the Authority concerned for passing appropriate orders.

7. Heard the learned counsel for the petitioner as well as the learned

Additional Government Pleader for the respondent and perused the materials available on record.

8. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned personal hearing notice was uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the said notice issued through the GST Portal and the original of the said notice was not furnished to them. In such circumstances, this Court is of the view that the impugned order came to be passed without affording any opportunity of personal hearing to the petitioner to establish its case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

9. For the reasons stated above, this Court is inclined to set aside the impugned order dated 27.04.2024 passed by the respondent with the following directions:-

(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 disputed tax in respect of the impugned assessment period 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 and issue a 14 days clear notice by fixing the date for 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.

10. Accordingly, the Writ Petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

04.09.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
The Assistant Commissioner (ST),
Karumathampatti Assessment Circle,
Dr.Balasundaram Road, ATT Colony,
Gopalapuram, Pappanaickenpalayam, Coimbatore.

Krishnan Ramasamy,J.,
jd

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