IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24723 of 2024
& W.M.P.Nos.27042 & 27044 of 2024

Oil Tech,
Rep by its Partner Mr.P.Sasidharan,
No.1, Thiruthanigal Nagar, Ambattur,
Chennai 600 053.

... Petitioner

Vs.

The Assistant Commissioner (ST),
Ambattur Assessment Circle,
No.323 & 324, 3rd Floor,
Integrated Commercial Taxes Building,
Nandanam, Chennai 600 003.

... Respondents

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 impugned order passed by the respondent in GSTIN: 33AAEF07909A1ZL/2017-18 dated 29.12.2023 along with DRC-07 in Ref No.ZD331223268409D dated 29.12.2023 issued by the respondent and quash the same and direct the respondent to hear the case on merits after affording a personal hearing opportunity.

For Petitioner : Mr.M.Narasimha Bharathi

For Respondent : Ms.K.Vasanthamala, Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 29.12.2023 passed by the respondent.

2. Ms.K.Vasanthamala, 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 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 came to be passed by the 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 respondent 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 amount by the petitioner.

5. In reply, the learned counsel for the petitioner would submit that the respondent has already recovered a substantial portion of tax amount from the petitioner. Hence, he requests this Court to pass appropriate orders.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

7. 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 29.12.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 29.12.2023 is set aside and the matter is remanded to the respondent for fresh consideration.

(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 1st 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.

29.08.2024

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

To

The Assistant Commissioner (ST),
Ambattur Assessment Circle,
No.323 & 324, 3rd Floor,
Integrated Commercial Taxes Building,
Nandanam, Chennai 600 003.

KRISHNAN RAMASAMY.J.,

nsa

W.P.No.24723 of 2024
& W.M.P.Nos.27042 & 27044 of 2024

29.08.2024