IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.25404 of 2024
& W.M.P.Nos.27775 & 27776 of 2024

M/s.Raj Guru,
Rep by its Authorised Signatory,
3rd, 167, Nakoda Pride,
Mint Street, Sowcarpet,
Chennai 600 079.

... Petitioner

Vs.

The Assistant Commissioner (ST)(FAC),
Peddunaickenpet Assessment Circle,
Integrated Commercial Taxes Offices Building,
Elephant Gate Bridge Road,
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 assessment proceedings in GSTIN: 33AAEHV2259J1ZY dated 19.09.2023 for the year 2017-18 and to quash this impugned order passed by the respondent in DRC-07 vide Ref.No.ZD330923114261T dated 19.09.2023 and direct the respondent to consider the request for rectification of mistakes as per the letter filed in DRC-06 dated 23.02.2024.

For Petitioner	:	Mr.C.Baktha Siromani
For Respondent	:	Ms.Amirta Poonkodi Dinakaran, Government Advocate

ORDER

This writ petition has been filed by the petitioner challenging the order dated 19.09.2023 passed by the respondent.

2. Ms.Amirta Poonkodi Dinakaran, 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 in the present case, while filing the monthly returns for March, 2018, the petitioner had wrongly claimed Input Tax Credit under the IGST Act and

the said error was rectified by reversing the said ITC in the month of April, 2018. Thereafter, the annual returns were also filed by the petitioner in Form GSTR-9 for the Assessment Year 2017-18. Without considering all these aspects, the respondent had initiated proceedings against the petitioner and they had uploaded the show cause notice under the head "Additional Notices and Orders" in the GST portal, due to which the petitioner was 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 order dated 19.09.2023.

4. Further, he would submit that subsequent to the passing of impugned order, the replies dated 23.02.2024 and 28.02.2024 were filed by the petitioner. However, the same were not considered by the respondent. Hence, he requests this Court to pass appropriate orders by directing the respondent to consider the reply dated 23.02.2024 filed by the petitioner and grant an opportunity to the petitioner to establish their case before the respondent.

5. On the other hand, the learned Government Advocate would submit that the respondent had uploaded the show cause notice in the GST Online Portal. But the petitioner failed to submit reply in time and therefore, the impugned assessment order came to be passed.

6. Further, she would submit that since the petitioner filed his replies after the passing of assessment order, the respondent have no occasion to deal with the same. Therefore, she requested this Court to pass appropriate orders to remit the matter back to the respondent.

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

8. In the present case, it appears that the respondents has neither considered the reply nor provided any opportunity of personal hearing 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 and 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 19.09.2023 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 19.09.2023 is set aside.
>
> (ii) The petitioner shall file a fresh copy of their reply dated 22.03.2024 to the respondent along with the required documents, if any, within a period of one week from today (05.09.2024).
>
> (iii) Thereafter, the respondent shall consider the same and issue a 7 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, within a period of 2 weeks from the date of receipt of copy of the reply filed by the petitioner.

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

closed.

10. Post this matter on 14.10.2024 for reporting compliance.

05.09.2024

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

Note: *Issue order copy on 05.09.2024*

To

The Assistant Commissioner (ST)(FAC),
Peddunaickenpet Assessment Circle,
Integrated Commercial Taxes Offices Building,
Elephant Gate Bridge Road,
Chennai 600 003.

KRISHNAN RAMASAMY.J.,

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