IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24812 of 2024 &
W.M.P.Nos.27157 & 27158 of 2024

Tvl.Sri Asthalakshmi Catering Equipments,
Rep. by its Proprietor, R.Murugan,
No.15, 18th Street,
Anjugam Nagar, Kolathur,
Chennai - 600 099. ... Petitioner

Vs.

The State Tax Officer (ST),
Vallalar Nagar Assessment Circle,
Integrated Commercial Taxes Offices Building,
Chennai (North) Division No.32,
Elephant Gate Bridge Road,
Vepery, Chennai - 600 003. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the respondent in and connected with impugned order Reference No.ZD3309232438744, dated 29.09.2023 in Form GST DRC-07 and its consequential summary order No.GSTIN.33AJEPM3714C1ZS/A2, dated 29.01.2024 and quash the same as being contrary to law and statutory mandates.

For Petitioner : Ms.Q.Rubina
For Mr.Prakash Goklaney

For Respondent : Mr.G.Nanmaran
Special Government Pleader (Taxes)

ORDER

This writ petition has been filed to quash the order in GST DRC-07, dated 29.09.2023 and the consequential summary order dated 29.01.2024 passed by the respondent.

2. The learned counsel for the petitioner submits that all notices/communications were uploaded in the GST portal. However, the petitioner, being a small business concern, was not aware of the notices uploaded on the GST portal, resulting in their failure to file a reply within the stipulated time. While so, without providing any opportunity to the petitioner, the respondent passed the impugned orders, which is in violation of the principles of natural justice.

3. On the other hand, the learned Additional Government Pleader (Taxes) would submit that the respondent uploaded the notice for personal hearing in the GST Online Portal. But the petitioner failed to avail the said

opportunity. He would further submit that now, the petitioner can very well approach the Appellate Authority. Hence, he prayed for appropriate orders.

4. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 10% of the disputed tax in the event of providing an opportunity to them to file their reply/objections along with the required documents to substantiate their claim, for which, the learned Additional Government Pleader (Taxes) has no serious objection.

5. Having regard to the admitted 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 orders impugned herein are 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 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 after issuing a 14 days clear notice by fixing the date of personal hearing and thereafter pass appropriate orders on merits and in accordance with law, as expeditiously as possible.

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

30.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
r n s

KRISHNAN RAMASAMY.J.,

r n s

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