IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.09.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.25176 of 2024 &
W.M.P.Nos.27495 & 27496 of 2024

Tvl. Mahaviray Jewellers,
Rep. by its proprietor Ladulal Jain,
No.334/335, Mint Street, Sowcarpet,
Chennai, Tamil Nadu-600 079.
Now at
No.167, Mint Street, Nakoda Pride,
Sowcarpet,
Chennai, Tamil Nadu-600 079. ...Petitioner

Vs.

The Deputy Commercial Tax Officer,
Peddunaickenpet Assessment Circle,
No.32, Elephant Gate Bridge Road,
Chennai-600 003. ... Respondent

Prayer : This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records in GSTIN:33ABDPL9485G1ZF/2018-19 dated 11.03.2024 on the file of the respondent and quash the same as illegal, error of law and error on the face of record and direct the respondent to pass orders as per the law.

For Petitioner : Dr.A.Thiyagarajan
Senior Counsel
for Mr.S.Ramesh Kumar

For Respondent : Mr.C.Harsha Raj,
Additional Government Pleader (Tax)

ORDER

This Writ Petition has been filed by the petitioner, challenging the impugned order dated 11.03.2024 passed by the respondent along with Form GST DRC-07 for the assessment year 2018-2019.

2. Mr.C.Harsha Raj, 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 is mismatch of tax liability between GSTR-3B and GSTR-1 filed by the petitioner for the assessment year 2018-2019, the respondent passed an impugned order dated 11.03.2024, demanding the payment of differential amount along with interest and penalty in respect of the impugned assessment period.

5. The learned counsel for the petitioner submitted that the respondent issued a summary of show cause notice in Form GST-DRC-01 dated 23.12.2023 to the petitioner in the GST common portal under "View Additional Notice Tab", as the petitioner was unaware of the same, he failed to respond the said Show Cause Notice. He submitted that even an impugned order was uploaded in the GST portal and the physical version of such order was not served on the petitioner. Therefore, he submitted that the order passed by the respondent in violation of principles of natural justice. Hence, he sought for appropriate orders from this Court for affording an opportunity to the petitioner to present the case by way of filing a suitable reply and participate in the proceedings.

6. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader (Taxes) for the respondent and perused the materials available on record.

7. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice was uploaded on the GST Portal Tab. According to the

petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause 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.

8. For the reasons stated above, this Court is inclined to set aside the impugned order dated 11.03.2024 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 in respect of the impugned assessment year.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks from the date of receipt of a copy of this order.

(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.

9. 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
jd

To
The Deputy Commercial Tax Officer,
Peddunaickenpet Assessment Circle,
No.32, Elephant Gate Bridge Road,
Chennai-600 003.

<u>Krishnan Ramasamy,J.,</u>

jd

W.P.No.25176 of 2024

04.09.2024