IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.09.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.25469 of 2024
and
W.M.P.Nos.27833 & 27834 of 2024

Tvl. SMS Trading Company,
Represented by its Proprietor
Mrs.Sagunthala Senthilkumar
No.37/1, Perumal Koil Street,
Erode, Tamil Nadu - 638 001. ...Petitioner

Vs.

The State Tax Officer,
O/o.The Commercial Tax Officer,
Mettur Road, Assessment Circle,
No.161, Meenakshi Sundaranar Salai,
Commercial Taxes Building, First Floor,
Erode, Tamil Nadu-638 001. ... 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 on the file of the 1st respondent in its impugned proceedings for the Assessment year 2018-19 in GSTIN:33BQWPS9038M2ZQ/2018-2019 dated 24.04.2024 and the consequential DRC-07 order bearing Ref No:ZD330424182436E dated 24.04.2024 and quash the same.

For Petitioner : M/s.R.Hemalatha

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

ORDER

This Writ Petition has been filed, challenging the impugned order dated 24.04.2024 passed by the respondent for the assessment year 2018-2019.

2. Mr.G.Nanmaran, learned Special 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. The learned counsel for the petitioner submitted that the show cause notice in Form DRC-01 dated 27.12.2023 raised on the petitioner in the GST portal under the head "View Additional Notices Tab", as the petitioner was unaware of the same, he failed to respond to the said notice. Therefore, the respondent proceeded to pass the impugned order dated 24.04.2024, demanding the petitioner for the payment of Rs.45,99,842/- along with interest.

Further, 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. It is also submitted that, if an opportunity is provided, and the petitioner would be able to substantiate his case and also he agrees to make a payment of 10% of the disputed tax demand in respect of the impugned assessment year.

5. Mr.G.Nanmaran, learned Special Government Pleader appearing for the respondent would submit that subject to the deposit of 10% of the disputed tax by the petitioner in respect of the impugned assessment period, this Court can remand the matter to the Authority concerned for passing appropriate orders.

6. Heard the learned counsel for the petitioner as well as the learned Special Government Pleader 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 assessment 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 orders dated 24.04.2024. Accordingly, this Court passes the following orders:-

(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 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 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.

9. With the above directions, this 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 State Tax Officer,
O/o.The Commercial Tax Officer,
Mettur Road, Assessment Circle,
No.161, Meenakshi Sundaranar Salai,
Commercial Taxes Building, First Floor,
Erode, Tamil Nadu-638 001.

Krishnan Ramasamy,J.,
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