IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.09.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.25847 of 2024
and
W.M.P.Nos.28211 & 28212 of 2024

Tvl.Elex Battery House,
Represented by its Proprietor Sivakumar
3/7-A, Rathinapuri, Manikavasagam Street,
Coimbatore, Tamil Nadu-641 027. ...Petitioner

Vs.

The Assistant Commissioner (ST),
Thudiyalur Assessment Circle,
Commercial Taxes Buildings,
Dr.Balasundaram Chettiar Road,
Coimbatore-641 018. ... 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 relating to the impugned order bearing GSTIN 33AYXPS6432R1Z9/2017-2018 dated 14.12.2023 passed by the Respondent and quash the same.

For Petitioner : Mr.P.Gowtham

For Respondent : Mrs.K.Vasanthamala,
Government Advocate (Taxes)

ORDER

This Writ Petition has been filed by the petitioner challenging the impugned order dated 14.12.2023 passed by the respondent for the assessment year 2017-2018.

2. Mrs.K.Vasanthamala, learned Government Advocate (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 admission stage itself.

4. Alleging that there is a mismatch of tax liability between GSTR 3B and GSTR 2A filed by the petitioner for the financial year 2017-2018, the respondent passed an impugned order, dated 14.12.2023, demanding the payment of the differential amount along with interest and penalty in respect of the impugned assessment period.

5. The learned counsel for the petitioner submitted that Show Cause Notices in Form DRC-01A dated 30.01.2023 and Form DRC-01 were raised on

the petitioner in the GST common portal, as the petitioner was unaware of the same, he failed to respond the said notices, which led to the passing of the impugned order. Further, he submitted that even an impugned order dated 14.12.2023 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 its case and also he agrees to make a payment of 10% of the disputed tax demand in respect of the impugned assessment period.

6. Mrs.K.Vasanthamala, learned Government Advocate (Taxes) 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.

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

8. 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 notices were uploaded on the GST Portal Tab. According to the petitioner, the petitioner was unaware of the issuance of the said show cause notices issued through the GST Portal and the original of the said show cause notices were 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.

9. For the reasons stated above, this Court is inclined to set aside the impugned order dated 14.12.2023 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 on condition that the petitioner shall pay a 10% of the disputed tax in respect of the impugned assessment period 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 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.

10. With the above directions, this Writ Petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

06.09.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
The Assistant Commissioner (ST),
Thudiyalur Assessment Circle,
Commercial Taxes Buildings,
Dr.Balasundaram Chettiar Road, Coimbatore-641 018.

Krishnan Ramasamy,J.,
jd

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