IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.09.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.25399 of 2024 &
W.M.P.Nos.27770 & 27771 of 2024

V.Arumugam,
Son of Venkatesan
Proprietor : M/s.Meenakshi Agencies,
No.282/5, Pachal Road, Kambar Salai,
NGO Nagar, Thirupathur-635 601. ...Petitioner

-Vs-

The Deputy State Tax Officer,
Thirupathur Circle,
Thirupathur District. ... 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 on the file of the respondent in order No.ZD3303240411091T dated 08.03.2024 for the Tax Period 2019-20 and quash the same and consequently direct the respondent to pass orders afresh after giving the petitioner an opportunity of hearing.

For Petitioner : M/s.R.Saritha

For Respondent : Ms.Amirtapoonkodi Dinakaran
Government Advocate (Taxes)

ORDER

This Writ Petition has been filed by the petitioner challenging the order dated 08.03.2024 passed by the respondent for the tax period 2019-2020.

2. Ms.Amirtapoonkodi Dinakaran, 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 Form GSTR 2A and GSTR 3B filed by the petitioner for the financial year 2019-2020, the respondent passed an impugned order, dated 08.03.2024, demanding the payment of the differential amount along with interest and penalty.

5. The learned counsel for the petitioner submitted that, a Show Cause Notice in Form DRC-01 raised on the petitioner in the GST common portal, as the petitioner was unaware of the same, he failed to respond the said notice. Further, he would submit that his accountant, who had an access to

portal as well who knows the password, failed to bring them about the show cause notice issued by the department. 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.

5.1. The learned counsel for the petitioner would further submit that, if an opportunity is provided, 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 period.

6. Ms.Amirtapoonkodi Dinakaran, 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 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.

9. For the reasons stated above, this Court is inclined to set aside the impugned order dated 08.03.2024 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 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 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.

04.09.2024

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

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

To
The Deputy State Tax Officer,
Thirupathur Circle,
Thirupathur District.

W.P.No.25399 of 2024

04.09.2024