IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.25530 of 2024 &
W.M.P.Nos.27902 and 27903 of 2024

M/s.Seetu Appliances,
represented by its Partner,
No.37/6 Arcot Road,
Vadapalani, Chennai- 600 026. ... Petitioner

Vs.

1. The Assistant Commissioner (ST),
Vadapalani Assessment Circle,
No.1 Greams Road, CT Annexe Building,
Chennai- 600 006.

2. The State Tax Officer,
Vadapalani Assessment Circle,
Central-1 Zone No.1, Greams Road,
CT Annexe Building, Chennai- 600 006. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the second respondent in his proceedings in Reference No.ZD330424148508D, quash the order dated 18.04.2024 passed therein for the tax period April 2018 to March 2019.

For Petitioner : Mr.P.V.Sudakar

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

ORDER

This writ petition has been filed by the petitioner challenging the order of the second respondent in his proceedings dated 18.04.2024 passed therein for the tax period April 2018 to March 2019.

2. Mr.G.Nanmaran, learned Special Government Pleader (Taxes) takes notice on behalf of the respondents.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner would submit that in the present case, initially, the respondent has issued a show cause notice dated 27.12.2023 to the petitioner and the same was uploaded in the heading "***View Additional Notices and Orders***" in the GST portal. Since the Petitioner was not aware of the same, they had failed to file

their reply within the time. Under these circumstances, the impugned order dated 18.04.2024 came to be passed by the 2nd Respondent demanding tax along with penalty and interest for the Assessment Year 2018-2019 and the Petitioner came to know of the same only after receipt of recovery notice dated 23.07.2024 from the 1st Respondent. He further submitted that the impugned order was passed without affording an opportunity of hearing to the Petitioner and therefore the same is in violation of the principles of natural justice and hence he prays to set aside the same.

5. On the other hand, the learned Special Government Pleader (Taxes) would submit that the respondents uploaded the show cause notice in the GST Online Portal. But the petitioner failed to submit reply in time and therefore the impugned assessment order came to be passed.

6. 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 liability made by the respondent in the event of providing an

opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Special Government Pleader (Taxes) has no serious objection.

7. Heard the learned counsel for the petitioner and the learned Special Government Pleader (Taxes) for the respondents and also perused the materials available on record.

8. In the present case, since the show cause notice was uploaded in the GST Portal, the petitioner was unaware of the same and therefore they failed to file reply for the said show cause notice.

9. Further, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order is passed in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned order

dated 18.04.2024 passed by the 2nd Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 18.04.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax to the respondents 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.

10. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

03.09.2024

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

1. The Assistant Commissioner (ST),
   Vadapalani Assessment Circle,
   No.1 Greams Road, CT Annexe Building,
   Chennai- 600 006.

2. The State Tax Officer,
   Vadapalani Assessment Circle,
   Central-1 Zone No.1, Greams Road,
   CT Annexe Building, Chennai- 600 006.

KRISHNAN RAMASAMY.J.,

arr

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