IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.09.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.25718 of 2024 &
W.M.P.Nos.28101 and 28102 of 2024

Rajresh Kumar Sinha ... Petitioner

Vs.

Assistant Commissioner of GST and Central Excise
Gummidipoondi Division:Chennai Outer Commissionerate
R-10, A-1, 100 Feet Road, Mogappair
Chennai-600037. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the Respondent, Order- in-Original No.30/2023 (AC)-GST passed under Section 74 of the TNGST Act, 2017 for the period 2017-2018 to 2021-2022 dated 22.12.2023 and quash the same as illegal and not in accordance with law and consequently direct the Respondent to conduct fresh assessment proceedings after providing a reasonable opportunity of hearing to the Petitioner in accordance with law.

For Petitioner : Mr.Rachav Rajeev Menon

For Respondents : Mr.Rajendran Raghavanan
Senior Standing Counsel

ORDER

The challenge in this writ petition is to the order dated 22.12.2023, passed by the respondent and quash the same and consequently direct the Respondent to conduct fresh assessment proceedings after providing a reasonable opportunity of hearing to the Petitioner in accordance with law.

2. The learned counsel for the petitioner submitted that in the present case, the Respondent issued Show Cause Notice to the Petitioner on 26.09.2023. Since the Petitioner was suffering from hepatitis and hypertension at that point of time, he was not in a position to file reply and therefore sought time to file reply and that apart the authorized representative of the Petitioner had appeared before the Respondent and filed written submissions along with case laws, but without considering the same, the Respondent passed an impugned order dated 22.12.2023, without providing an opportunity of hearing to the Petitioner and therefore the same is in violation of principles of natural justice. He prays that one more opportunity may be granted to him to substantiate his case before the authority concerned.

3. On the other hand, the learned Senior standing counsel appearing for the respondent submitted that in the present case, show cause notice was served to the Petitioner through post as well as through E-mail, for which the Petitioner had not chosen to file reply and though personal hearing was provided, the Petitioner had not appeared before the authorities instead his authorized representative appeared in person and submitted written submissions, by quoting certain case laws. The Respondent on considering the same has passed the impugned order and therefore it cannot be said that impugned order was passed in violation of principles of natural justice. He further submitted that if the Petitioner is aggrieved by the impugned order, he can very well file an Appeal before the appellate authority challenging the impugned order.

4. Heard the learned counsel on either side and perused the materials available on record.

5. Admittedly, show cause notice was served to the Petitioner by way of post and E-mail and the Petitioner had not chosen to file reply and though the opportunity of personal hearing was provided to the Petitioner, he failed to appear before the authority and instead his authorised representative

appeared and filed written submissions, quoting certain laws and the same was taken note of by the Respondent, before passing the impugned order and therefore it cannot be said that impugned order was passed without providing an opportunity of hearing to the Petitioner and if the Petitioner is aggrieved by the impugned order, the remedy available to him is to file Appeal before the Appellate authority.

7. In such view of the matter, this Writ Petition is dismissed. However, the petitioner is at liberty to file an Appeal before the Appellate authority within a period of 30 days from the date of receipt of a copy of this order and if such appeal is filed, the Appellate authority shall take it on file and decide the same,without being influenced by the order passed by this Court and without insisting on the period of limitation. No costs. Consequently, connected Miscellaneous Petition is closed..

03.09.2024

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

The Assistant Commissioner,
Thirumazhisai Assessment Circle,
Zone-XI, Thiruvallur Division,
Integrated CT Building,
No.4/109, Chennai Bangalore Highways,
Varadharajapuram, Nazarathpet,
Poonamallee- 600 012.

KRISHNAN RAMASAMY.J.,

arr

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W.M.P.Nos.28101 and 28102 of 2024

03.09.2024