IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.09.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.26598 of 2024 &
W.M.P.Nos.29107 & 29110 of 2024

TMF Business Services Limited,
(formerly Tata Motors Finance Limited)
Rep by its Authorized Signatory, Mr.Uday Uchil
No.45, Celestial Point, Damodharan Street,
T. Nagar, Chennai, Tamil Nadu-600 017.

...Petitioner

-Vs-

1. State Tax Officer, Group-I,
Intelligence-I,
No.01, PAPJM Buildings,
Greams Road, Thousand Lights, Chennai-600 006.

2. State Tax Officer Group VII,
Inspection I, Intelligence-I,
No.01, PAPJM Buildings,
Greams Road, Thousand Lights, Chennai-600 006.

3. State Tax Officer Group X,

Inspection I,
No.1 PAPJM Buildings, Greams Road,
Thousand Lights, chennai 600 006.

4. Joint Commissioner (ST), Chennai Intelligence I
No.01, PAPJM Buildings, Greams Road,
Thousand Lights, Chennai-600 006

5. The State of Tamil Nadu,
Represented by its Secretary to Government,
Commercial Taxes and Registration Department,
Secretariart, Fort St. George, Chennai-600 009. ... Respondents

Prayer : This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the Impugned Order passed with reference to GSTIN:33AAECS0591F2ZK/2021-2022 dated 28.05.2024 on the files of the First Respondent and quash the same as arbitrary, without jurisdiction and void.

For Petitioner : Mr.Kumar Vishalaksh

For Respondents : Mr.T.N.C.Kaushik
Additional Government Pleader (Taxes)

ORDER

This Writ Petition has been filed by the petitioner challenging the impugned order dated 28.05.2024 passed by the first respondent.

2. Mr.T.N.C.Kaushik, learned Additional 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. Alleging that there is a mismatch of tax liability filed by the petitioner for the financial year 2021-2022, the first respondent passed an impugned order, dated 28.05.2024, demanding the payment of the differential amount along with interest and penalty.

5. The learned counsel for the petitioner submitted that, inspite of the request vide letter dated 21.05.2024 made by the petitioner, seeking for extension of time to file their reply to the show cause notice, the first respondent passed the present impugned order dated 28.05.2024, resulting in violation of principles of natural justice. Further, he would submit that even an impugned order was uploaded in the GST portal and the physical version of such order was not served on the petitioner. Hence, he sought for appropriate orders from this Court for affording an opportunity to the petitioner to present

the case and participate in the proceedings.

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 Rs.50,00,000/- of the disputed tax demand in respect of the impugned assessment period.

6. Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes) appearing for the respondents would submit that subject to the deposit of Rs.50,00,000/- 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 Additional Government Pleader (Taxes) appearing for the respondents 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. Without even considering the request made by the petitioner for an extension of time for filing their reply to the show cause notice and personal hearing, the impugned order came to be passed by the first respondent. 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 28.05.2024 passed by the first respondent with the following directions:-

(i) The order impugned herein is set aside and the matter is remanded to the first respondent for fresh consideration on condition that the petitioner shall pay a sum of Rs.50,00,000/- of the disputed tax in respect of the impugned assessment year in question to the first 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 first 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.

18.09.2024

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

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