IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.09.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.26178 of 2024 &
W.M.P.Nos.28611 and 28612 of 2024

Jaina Beevi ... Petitioner

Vs.

The Commercial Tax Officer,
Cuddalore Town Assessment Circle,
Cuddalore-607001. ... Respondent

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 Respondent's order dated 02.08.2023 in Reference No:ZD330823010093X and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.G.Nanmaran
Special Government Pleader

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O R D E R

This writ petition has been filed by the petitioner challenging the order dated 02.08.2023 passed by the Respondent in Reference No:ZD330823010093X and to quash the same.

2. Mr.G.Nanmaran, learned Special Government Pleader (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. The learned counsel for the petitioner submits that all notices were uploaded under the "Additional Notices/Orders" in the GST portal. However, the petitioner is not aware of the notices uploaded in the GST portal and thus, failed to file their reply within the time and therefore impugned order came to be passed and the same was also uploaded in the GST portal in "Additional Notices/Orders" column. Further he would submit that the impugned order is passed without giving an opportunity

of personal hearing to the petitioner, which is in violation of the principles of natural justice.

5. On the other hand, the learned Additional Government Pleader would submit that the respondent uploaded the intimation notice, show notice followed by three reminders in the GST Online Portal. But the petitioner failed to submit their reply. Hence, he prayed for appropriate orders.

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 respondent and also perused the materials available on record.

8. In the present case, since all the notices/communications were uploaded in the GST Portal, the petitioner was not aware of the same and therefore they were not in a position 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 02.08.2023 passed by the Respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 02.08.2023 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.

09.09.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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KRISHNAN RAMASAMY.J.,

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To

The Commercial Tax Officer,
Cuddalore Town Assessment Circle,
Cuddalore-607001.

W.P.No.26178 of 2024 &
W.M.P.Nos.28611 and 28612 of 2024

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