IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.26473 of 2024
& W.M.P.Nos.28944 & 28945 of 2024

Tvl.Trust Metal,
Rep by its Proprietrix Bhagwanti Devi,
309B, Manohan Plaza, Mint Street,
Park Town, Chennai 600 003.

... Petitioner

Vs.

The State Tax Officer (ST),
Moore Market Assessment Circle,
Integrated Commercial,
Chennai 600 001.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order of the respondent in GSTIN: 33AADPD803E1Z8/2018-19 dated 18.03.2024 and consequential summary of order in Ref.No.Z330324103111D dated 18.03.2024 and quash the same and consequently, direct the respondent to entertain the records, documents and reply from the petitioner and then pass order after affording a personal hearing to the petitioner.

For Petitioner	:	Mr.M.Hariharan
For Respondent	:	Mr.V.Prashanth Kiran, Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 18.03.2024 passed by the respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that all notices/communications were uploaded by the respondent under the column, viz., "View Additional Notices and Orders", in the GST portal.

Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. Further, he would submit that subsequent to the impugned assessment order, the entire tax amount was paid by the petitioner by virtue of Demand Draft. Hence, he requests this Court to pass appropriate orders.

5. On the other hand, the learned Government Advocate appearing for the respondent would submit that the respondent has uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to pass appropriate orders to remit the matter back to the respondent.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

7. In the present case, 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 was passed in violation of principles of natural justice since 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 18.03.2024 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 18.03.2024 is set aside and the matter is remanded to the respondent for fresh consideration
>
> (ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

(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, within a period of 4 weeks.

(iv) Considering the fact that the entire tax amount was already paid by the petitioner, the respondent is directed to quantify and refund the excess tax amount, if any, to the petitioner.

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

12.09.2024

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

KRISHNAN RAMASAMY.J.,

nsa

To

The State Tax Officer (ST),
Moore Market Assessment Circle,
Integrated Commercial,
Chennai 600 001.

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