IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.25949 of 2024 &
W.M.P.Nos.28325 & 28326 of 2024

M/s.Karpagam Brick Industries,
Represented by its Proprietor,
Anoolr Govindasamy Kuppusamy,
678/13, P.H.Road,
Aminjikarai,
Chennai - 600 029. ... Petitioner

Vs.

The Assistant Commissioner,
Kilpauk Central-II,
Chennai. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the files of the respondent herein in Form GST DRC-07 with Order Reference No.ZD330424206729E, dated 26.04.2024 along with the Annexure in GSTN 33AJEPK0047L1ZF/2018-19, dated 26.04.2024 for the assessment period 2018-19.

For Petitioner : Mr.K.A.Parthasarathi

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

ORDER

This writ petition has been filed to quash the order issued in Form GST DRC-07, along with the Annexure dated 26.04.2024, for the assessment period 2018-19.

2. The learned counsel for the petitioner submits that all notices/communications were uploaded under the "Additional Notices Column" in the GST portal. However, the petitioner, being a small business concern, was not aware of the notices uploaded on the GST portal, resulting in their failure to file a reply within the stipulated time. While so, without providing any opportunity to the petitioner, the respondent passed the impugned order, which is in violation of the principles of natural justice.

3. On the other hand, the learned Additional Government Pleader (Taxes) would submit that the respondent uploaded the notice for personal hearing in the GST Online Portal. But the petitioner failed to avail the said opportunity. He would further submit that now, the petitioner can very well approach the Appellate Authority. Hence, he prayed for appropriate orders.

4. 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 in the event of providing an opportunity to them to file their reply/objections along with the required documents to substantiate their claim, for which, the learned Additional Government Pleader (Taxes) has no serious objection.

5. Having regard to the admitted fact that the impugned order came to be passed without hearing the petitioner in violation of the principles of natural justice, and also considering the submissions made by the learned counsel on either side, this court passes the following order:-

> (i) The order impugned herein are set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay a 10% of the disputed tax to the 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 respondent shall consider the same after

issuing a 14 days clear notice by fixing the date of personal hearing and thereafter pass appropriate orders on merits and in accordance with law, as expeditiously as possible.

6. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

04.09.2024

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

r n s

To

The Assistant Commissioner,
Kilpauk Central-II,
Chennai.

KRISHNAN RAMASAMY.J.,
r n s

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