IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.26403 of 2024
& W.M.P.No.28850 of 2024

Tvl.Korloy India Tooling Private Limited,
(Rep by its Managing Director Mr.Junwon Seo),
1st Floor, Door No.784/B, Byepass Road,
Near Sriperumbudur Police Station,
Sriperumbudur, Kancheepuram,
Tamil Nadu 602 105.

... Petitioner

Vs.

The Assistant Commissioner (ST)(FAC),
Sriperumbudur Assessment Circle,
4/109, Chennai Bangalore High Road,
Varadharajapuram, Tamil Nadu 600 123.

... Respondents

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 his proceeding in Form GST DRC-07 with Ref.No.ZD331223292412Q dated 31.12.2023 along with detailed order in GSTIN: 33AAECK5404H1ZV/2017-18 dated 31.12.2023 for the assessment period 2017-18 and quash the same.

For Petitioner	:	Mr.B.Syed Abdul Wakeel, for Mr.T.Suresh
For Respondent	:	Ms.K.Vasanthamala, Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 31.12.2023 passed by the respondent.

2. Ms.K.Vasanthamala, 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 respondent had recovered the entire tax amount by virtue of attachment and the same was informed to the petitioner by the petitioner's bank vide letter dated 22.05.2024.

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, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she 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 31.12.2023 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 31.12.2023 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.

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

To

The Assistant Commissioner (ST)(FAC),
Sriperumbudur Assessment Circle,
4/109, Chennai Bangalore High Road,
Varadharajapuram, Tamil Nadu 600 123.

KRISHNAN RAMASAMY.J.,

nsa

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