IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.26480 of 2024
& W.M.P.Nos.28952 & 28953 of 2024

T.Pushparaj

... Petitioner

Vs.

The State Tax Officer (ST),
Vallalarnagar Assessment Circle,
Chennai (North) Division,
No.32, Elephant Gate Bridge Road,
Chennai 600 003.

... 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 of the respondent's order dated 29.09.2023 in Ref.No.ZD330923234510P and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondent : Ms.K.Vasanthamala, Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 29.09.2023 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 in the present case, the respondent had issued two show cause notices dated 25.08.2023 and 31.08.2023 for the identical issues pertaining to the same assessment year, due to which, the petitioner was confused and hence, they had failed to file their reply within the time. Thereafter, vide order dated 27.09.2023, the respondent had dropped the proceedings

pertaining to the show cause notice dated 31.08.2023. Hence, the petitioner was under the impression that no proceedings were pending against him. Under these circumstances, pursuant to the show cause notice dated 25.08.2024, the impugned order dated 29.09.2023 came to be passed by the respondent, without even providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. On the other hand, the learned Government Advocate appearing for the respondent would submit that due to the issuance of two show cause notices for identical issues, the respondent has only dropped the proceedings, which were pertaining to the show cause notice dated 31.08.2023. However, the impugned order was passed pursuant to the show cause notice dated 25.08.2024, for which the petitioner failed to file their reply.

5. 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 remit the matter back to the

respondent, subject to the payment of 10% of the disputed tax amount by the petitioner.

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 the respondent had issued two show cause notices for identical issues, which were pertaining to similar assessment year and thereafter, they had dropped the proceedings pertaining to one of the show cause notices. However, since the petitioner was under the impressions that the no proceedings were pending against them, they had failed to file their reply. Under these circumstances, pursuant to the another show cause notice, the impugned order dated 29.09.2023 came to be passed by the respondent.

8. 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 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 29.09.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 29.09.2023 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 amount to the respondent within a period of four weeks from today (12.09.2024) 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 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, as expeditiously as possible.

9. 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 State Tax Officer (ST),
Vallalarnagar Assessment Circle,
Chennai (North) Division,
No.32, Elephant Gate Bridge Road,
Chennai 600 003.

KRISHNAN RAMASAMY.J.,

nsa

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