IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.No.26455 of 2024
and
WMP.Nos.28919 and 28920 of 2024

M/s.Golden Manor
Rep. by its Partner Shri.G.Prasanth
36/42, Thiruvengadam Street,
Periamet, Chennai- 600 003. Petitioner

...Vs...

The Deputy State Tax Officer -1,
Vepery Assessment Circle
10, Palaniyappa Maligai, 3rd Floor,
Greams Road, Chennai- 600 006. Respondent

Prayer:- This Writ Petition is filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records of the Respondent in Ref.No.ZD330424026508K and quash the order dated 03.04.2024 passed therein.

For Petitioner : Ms.Hema Muralikrishnan

For Respondent : Ms.K.Vasanthamala
Government Advocate (Taxes)

ORDER

This Writ Petition has been filed challenging the order of the Respondent dated 03.04.2024 in Ref.No.ZD330424026508K and to quash the same.

2. Ms.K.Vasanthamala, learned Government Advocate (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 submitted that the Petitioner had leased out its hotel to M/s.Alcott under Management Services Agreement dated 15.05.2018 and they were running the hotel in the name of M/s.Oyo Hotels and Homes Private Limited. He further submitted that the room rent was collected by M/s.Oyo and they were providing service to the Petitioner in managing the hotel from September 2018 and raising invoices for the charges for the same and therefore the Petitioner was a recipient of service alone and did not provide any output service from

September 2018 and therefore the Petitioner had not filed GST returns from October 2018, due to which the Petitioner's registration was cancelled on 02.05.2019 with effect from 03.09.2018. Since, the registration was cancelled the Petitioner was unaware of the proceedings initiated by the Respondent.

5.Further, he would submit that the Petitioner came to know from the office of the Respondent that the impugned order was passed by the Respondent demanding tax along with penalty and interest. Thereafter,the Petitioner took steps to access the GST portal and came to know that show cause notice followed by reminders and the impugned order were uploaded in the GST portal in "Additional notices and Order"tab. He further submitted that since the registration of the Petitioner was cancelled the Petitioner was unable to access the GST portal and therefore was not able to submit reply for the Show Cause Notice. He therefore would submit that impugned order is passed without affording an opportunity of personal hearing to the Petitioner and therefore the same is in violation of the principles of natural justice.

6. On the other hand, the learned Government Advocate (Taxes)

would submit that the respondent uploaded the show cause notice as well as the reminders in the GST Online Portal. But the petitioner failed to submit reply in time and therefore the impugned assessment order came to be passed.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the Respondent and also perused the materials available on record.

8. In the present case, it appears that since the registration of the Petitioner was cancelled he could not access the GST portal and due to which the Petitioner was not aware of the Show Cause notice issued to them followed by reminders and hence could not file reply and therefore impugned order came to be passed without providing an opportunity of personal hearing to the petitioner. Hence, this Court is of the view that the impugned order was 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 03.04.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside and the matter is remanded back to the Respondent.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three 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.

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

11.09.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation: Yes/No
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KRISHNAN RAMASAMY, J.

arr

To

The Deputy State Tax Officer -1,
Vepery Assessment Circle
10, Palaniyappa Maligai, 3rd Floor,
Greams Road, Chennai- 600 006.

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