IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.27008 of 2024 &
W.M.P.Nos.29525 and 29526 of 2024

Tvl.Sumaiya Steels
represented by its Proprietrix A.Shaheetha Banu
No.233/6A 1, Cuddalore Main Road,
Aadhi Parasakthi Koil Opp.
Neyveli- 607 802. ... Petitioner

Vs.

1. Deputy Commercial Tax Officer,
Panruti Rural, Cuddalore.

2. The State Tax Officer (Intelligence)
Inspection III,
O/o. The Deputy Commissioner [ST] [Investigation]
Villupuram. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the 1st respondent vide his Order of Assessment bearing Reference No.ZD3307231128796 in GSTIN/ID: 333CWTPS0618B1ZK/2018-19 dated 26.07.2023 and to quash the same.

For Petitioner : Mr.Ganesh Kanna

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

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ORDER

This writ petition has been filed by the petitioner challenging the order of the Respondent dated 26.07.2023 and to quash the same.

2. Mrs.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 would submit that in the present case, the show cause notice and the reminder notices were sent to the petitioner. Due to the ill-health of the petitioner, 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.

5. On the other hand, the learned Government Advocate (Taxes) would submit that the respondent has sent all the notices to the petitioner. 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 the 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.

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 no opportunity of personal hearing was provided to the petitioner prior to the passing of the

impugned order. Hence, this Court is of the view that the impugned order is 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 26.07.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 26.07.2024 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 to the respondents 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 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.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that in case if any attachment made on the bank account of the petitioner, the same cannot survive any longer and hence, it is lifted. As a sequel, the respondent is directed instruct the concerned bank to release the attachment on the bank account of the petitioner, immediately upon the production of a copy of this order.

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

23.09.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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KRISHNAN RAMASAMY.J.,

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To

1. Deputy Commercial Tax Officer,
   Panruti Rural, Cuddalore.

2. The State Tax Officer (Intelligence)
   Inspection III,
   O/o. The Deputy Commissioner [ST] [Investigation]
   Villupuram.

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