IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.26525 of 2024 &
W.M.P.Nos.29022 & 29023 of 2024

Tvl.Mujeebur Rahman,
Proprietor of M/s.Divya Cars,
GSTIN 33AANPM2040B1ZB,
F2, Nathans Skanda Apartment,
27, Subramaniam Colony,
Velachery, Chennai - 600 042. ... Petitioner

Vs.

The Deputy State Tax Officer-I,
Velacherry Assessment Circle,
No.571, Integrated CT and Registration Department,
South Tower, Room No.223, 2nd Floor,
Nandhanam, Chennai - 600 035. ... 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 relating to the impugned order ref:GSTIN/33AANPM2040B1ZB/2018-19, dated 19.03.2024 along with summary order in Form DRC-07 ref No.ZD330324116800X, dated 19.03.2024 passed by the respondent and quash the same as the same being arbitrary, passed in violation of the principles of natural justice.

For Petitioner : M/s.K.Aarthy

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

ORDER

This writ petition has been filed to quash the impugned order along with the summary order in Form DRC-07 dated 19.03.2024 passed by the respondent.

2. The learned counsel for the petitioner submits that all notices/communications were uploaded 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 orders, which are 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. 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 orders 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 orders 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 orders will take effect from the date of payment of the said amount.
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> (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.

13.09.2024

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

r n s

To

The Deputy State Tax Officer-I,
Velacherry Assessment Circle,
No.571, Integrated CT and Registration Department,
South Tower, Room No.223, 2nd Floor,
Nandhanam, Chennai - 600 035.

KRISHNAN RAMASAMY.J.,

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