IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.26477 of 2024
& W.M.P.Nos.28947 & 28948 of 2024

Sri Ganesa Engineering Enterprises,
Rep by its Partner, K.Rajasekar,
No.10/1013, 10th Block, 2nd Floor,
E.B.Office Road, Mugappair East,
Thiruvallur, Tamil Nadu 600 037

... Petitioner

Vs.

The Deputy State Tax Officer,
(Formerly known as Deputy Commercial Tax Officer),
JJ Nagar, Central-II: Chennai,
JJ Nagar Assessment Circle,
Integrated Registration Commercial Taxes Building,
III Floor, Room No.333,
Nandanam, Chennai 600 035.

... 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 in Ref.No.ZD3312230440227/2017-18 dated 08.12.2023 and quash the same.

For Petitioner	:	Mr.S.Ramanan
For Respondent	:	Mr.G.Nanmaran, Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 08.12.2023 passed by the respondent.

2. Mr.G.Nanmaran, learned Special Government Pleader, 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, since the consultant of the petitioner has failed to communicate about the impugned proceedings to the petitioner, the petitioner was not aware of the notices issued by the respondent, due to

which, 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. On the other hand, the learned Special Government Pleader appearing for the respondent would submit that the respondent has issued notices to the petitioner. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he 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.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondent and also perused the materials available on record.

6. 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 08.12.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 08.12.2023 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.

7. 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 Deputy State Tax Officer,
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KRISHNAN RAMASAMY.J.,

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