IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.26632 of 2024 &
W.M.P.Nos.29149 & 29150 of 2024

Tvl. B & B Machines,
Rep. by its Proprietor,
No.3, Sri Devi Nagar III Street,
Ganapathy, Coimbatore,
Tamil Nadu - 641 006. ... Petitioner

Vs.

The Assistant Commissioner,
Ganapathy: Coimbatore-III,
Tamil Nadu - 641 006. ... 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 of the impugned order in Reference No.ZD330424068188A, dated 08.04.2024 under Section 73 of the CGST/TNGST Act, 2017 and uploaded the same along with the summary of the order in DRC07 for the financial year 2018-19 from the files of the respondent herein, and quash the same.

For Petitioner : M/s.Aparna Nandakumar

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

ORDER

Mrs.K.Vasanthamala, learned Government Advocate (Taxes) takes notice for the respondent.

2.By consent, the writ petition is taken up for final disposal at the admission stage itself.

3. This writ petition has been filed to quash the order of the respondent dated 08.04.2024, issued under Section 73 of the CGST/TNGST Act, 2017, along with the summary of the order in DRC-07 for the financial year 2018-19.

4. The learned counsel for the petitioner submits that all notices/communications were uploaded under the "Additional Notices Column" 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.

5. On the other hand, the learned Government Advocate (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. He would further submit that now, the petitioner can very well approach the Appellate Authority. Hence, she prayed for appropriate orders.

6. 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 Government Advocate (Taxes) has no serious objection.

7. 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 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 order will take effect from the date of payment of the said amount.

(ii) On such payment, the respondent is directed to lift the attachment on the bank account of the petitioner with immediate effect.

(iii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iv) 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.

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

13.09.2024

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

To

The Assistant Commissioner,
Ganapathy: Coimbatore-III,
Tamil Nadu - 641 006.

KRISHNAN RAMASAMY.J.,
r n s

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