IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.09.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.26730 of 2024
and
W.M.P.Nos.29232 & 29233 of 2024

M/s.Sathyam Trading Corporation,
Rep., by its Authorized Signatory,
No.42, 6th Street TATABAD, Gandhipuram,
Coimbatore, Tamil Nadu-641 012. ...Petitioner

Vs.

The Assistant Commissioner (ST),
Office of the Assistant Commissioner (ST),
Gandhipuram Assessment Circle,
Coimbatore, Tamil Nadu-641 018. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the impugned assessment order in Ref.No.ZD330424188063J dated 24.04.2024 passed under Section 73 of the CGST/TNGST Act, 2017 and uploaded along with summary of order in DRC-07, for tax period 2018-19 from the files of the respondent and quash the same.

For Petitioner : M/s.G.Kumudhaa

For Respondent : Mrs.Amirtapoonkodi Dinakaran
Government Advocate (Taxes)

ORDER

This Writ Petition has been filed by the petitioner challenging the order dated 24.04.2024 passed by the respondent for the financial year 2018-2019.

2. Ms.Amirtapoonkodi Dinakaran, 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. Alleging that there is a mismatch of tax liability filed by the petitioner for the financial year 2018-2019, the respondent passed an impugned order, dated 24.04.2024, demanding the payment of the differential amount in respect of the impugned assessment period.

5. The learned counsel for the petitioner submitted that the Show Cause Notice in Form GST DRC-01 dated 29.01.2024 raised on the petitioner

in the GST common portal under "View Additional Notices and Orders" tab. According to the petitioner, it was unaware of the said notices uploaded in the GST common portal, and therefore failed to respond to the said notices, which led to the passing of the present impugned order. Further he submitted that even an impugned order was uploaded in the GST portal and the physical version of such order was not served on the petitioner. It is also submitted that, if an opportunity is provided, the petitioner would be able to substantiate his case and also he agrees to make a payment of 10% of the disputed tax demand in respect of the impugned assessment period.

6. Ms.Amirtapoonkodi Dinakaran, learned Government Advocate appearing for the respondent would submit that subject to the deposit of 10% of the disputed tax by the petitioner in respect of the impugned assessment period, this Court can remand the matter to the Authority concerned for passing appropriate orders.

7. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondent and perused the materials available on record.

8. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice was uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice through the GST Portal and the original of the said show cause notice was not furnished to them. In such circumstances, this Court is of the view that the impugned order came to be passed without affording any opportunity of personal hearing to the petitioner to establish its case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

9. For the reasons stated above, this Court is inclined to set aside the impugned order dated 24.04.2024 along with the summary of order in DRC-07 passed by the respondent with the following directions:-

(i) The order impugned herein is 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 in respect of the impugned assessment year 2017-2018 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) 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.

10. With the above directions, this writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petition is closed.

18.09.2024

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

The Assistant Commissioner (ST),
Office of the Assistant Commissioner (ST),

Gandhipuram Assessment Circle,
Coimbatore, Tamil Nadu-641 018.

Krishnan Ramasamy,J.,

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W.P.No.26730 of 2024

18.09.2024