IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.26458 of 2024 &
W.M.P.Nos.28922 & 28923 of 2024

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

Vs.

1.The 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 to issue a Writ of Certiorari, to call for the records of the first respondent vide his Order of Assessment bearing Reference No.ZD330823161541K in GSTIN/ID:33CWTPS0618B1ZK/2020-21, dated 28.08.2023 and quash the same as being without jurisdiction, authority of law.

For Petitioner : Mr.R.Ganesh Kanna

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

ORDER

The writ petition has been filed to quash the assessment order dated 28.08.2023 passed by the first respondent under Section 74 of the TNGST Act, 2017.

2. The learned counsel for the petitioner submits that the first respondent issued DRC-01A to the petitioner on 04.02.2023, which was received by the petitioner's personnel, who then sought additional time to respond because the proprietrix of the firm was unwell at the time of receipt and unable to address the defects in the notice. The learned counsel further states that, upon receipt of Form GST DRC-01 dated 13.03.2023, the petitioner's personnel, handling online GST inquiries without consulting the proprietrix, sent replies in Form GST DRC-06 on 03.04.2023 and 07.05.2023, requesting an extension due to the proprietrix's hospitalization. Despite this, the first respondent proceeded to issue the impugned order without considering the request for additional time and the circumstances of the proprietrix's condition, which was passed without granting sufficient time and

is in violation of the principles of natural justice. Additionally, the learned counsel submits that the petitioner is ready and willing to pay 10% of the disputed tax as assessed by the respondent, provided an opportunity is given to substantiate their claim by filing a reply along with documentary evidence.

3. On the above submissions, I have heard the learned Government Advocate (Taxes) appearing for the respondents.

4. It is evident from the impugned order that the petitioner requested additional time to file a reply due to the proprietrix's illness. However, the first respondent issued the order without considering this request. Therefore, this court is inclined to remand the matter to the first respondent for fresh consideration, subject to payment of 10% disputed tax by the petitioner.

5. In such view of the matter, this writ petition stands disposed of in the following terms:

> (i) The order impugned herein is set aside and the matter is remanded to the first respondent for fresh consideration on condition that the petitioner shall pay 10% of demand 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 first 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.

Consequently, connected miscellaneous petitions are closed. There is no order as to costs.

06.09.2024

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

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To

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

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

KRISHNAN RAMASAMY.J.,

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