IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.26850 of 2024 &
W.M.P.Nos.29364 & 29367 of 2024

M/s.Sri Mahalakshmi Textiles
Rep. by its Proprietor
Mr.B.L.Kesavan
Krishnagiri Main Road,
Bargur,
Krishnagiri-635 104. ... Petitioner

Vs.

The State Tax Officer (FAC),
Krishnagiri-2 Assessment Circle,
Krishnagiri. ... 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 Respondent herein, in GSTIN:33AEEPK3829F1ZR/2018-19 and quash the proceeding dated 13.04.2024 passed therein.

For Petitioner : Mr.Raveendran B

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

O R D E R

This writ petition has been filed by the petitioner challenging the proceeding dated 13.04.2024 and to quash the same.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader (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. The learned counsel for the petitioner submits that all notices/communications were uploaded under the "View Additional Notices and Orders" in the GST portal. However, the petitioner is not aware of the notices uploaded in the GST portal and thus, failed to file their reply within the time. While so, without providing any opportunity to the petitioner, the respondent passed the impugned order and the same was also uploaded in the GST Portal. The Petitioner came to know of the same only after they received call from the banks regarding the recovery

notice issued by the respondent. He further submitted that impugned order has been passed without affording an opportunity of hearing to the Petitioner and therefore the same is in violation of the principles of natural justice.

5. 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.

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 made by the respondent in the event of providing an opportunity to them to file their reply/objections along with the required doucments to substantiate their claim, for which, the learned Additional Government Pleader (Taxes) has no serious objection.

7. In the present case, since all the notices/communications were uploaded in the GST Portal, the petitioner was not aware of the same and therefore they were not in a position to file reply for the said show cause notice.

8. Further, 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 is passed in violation of principles of natural justice and 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 13.04.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 13.04.2024 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 to the respondents 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.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

11.09.2024

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

The State Tax Officer (FAC),
Krishnagiri-2 Assessment Circle,
Krishnagiri.

KRISHNAN RAMASAMY.J.,

arr

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