IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2024
CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.No.28350 of 2024
and W.M.P.Nos.30910 and 30911 of 2024

Tvl.R.J.S.Steels Private Limited,
D.No.4/477/34, Rajeshwari Complex,
First Floor, VIP Nagar, Kalkatti,
Cheyur, Coimbatore- 641 656 .... Petitioner

Vs.

1.The State Tax Officer,
Inspection-3,
Coimbatore,

2.The Joint Commissioner (ST)
Directorate General of GST Intelligence,
Coimbatore
Tamil Nadu ... Respondents

Prayer:- Writ Petition is filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records of the impugned order in GSTIN:33AAHCR8631C1ZK/2018-2019 dated 31.05.2024 under Section 74 of the CGST/TNGST Act, 2017 for the financial year 2018-19 on the file of the first respondent and quash the same.

For Petitioner : Mr.Aparna Nandakumar
For Respondents : Ms.Amirta Poonkodi Dinakaran
Government Advocate (Tax)

O R D E R

The present Writ Petition has been filed for issuance of a Writ of Certiorari, to call for the records of the impugned order in GSTIN:33AAHCR8631C1ZK/2018-2019 dated 31.05.2024 under Section 74 of the CGST/TNGST Act, 2017 for the financial year 2018-19 on the file of the first respondent and quash the same.

2. The learned counsel for the petitioner would submit that after issuing show cause notice dated 05.03.2024 by the first respondent, the petitioner filed reply on 18.05.2024. Without affording an opportunity of personal hearing to the petitioner, the impugned order came to be passed on 31.05.2024. If the respondents are intended to take any action and pass the impugned order against the petitioner, it is mandatory to issue notice of personal hearing nor provide an opportunity of personal hearing under Section 75(4) of the GST Act. Therefore, he submitted that the impugned order is in violation of Section 75(4) of the GST Act. He further submitted that the petitioner is willing to deposit 10% of the disputed tax amount and hence, the order passed by the respondents may be set aside and remanded the matter back to the respondents for reconsideration. Hence, he prayed to set aside the impugned order.

3. Learned Government Advocate appearing for the respondents would submit that in the present case, pre-show cause notice dated 27.02.2024 was issued and the petitioner refused to file reply to the pre-show cause notice. Hence, show cause notice dated 05.03.2024 was issued by the first respondent. Thereafter, the petitioner filed reply to the said show cause notice on 18.05.2024. Pursuant to which, the first respondent considered the reply to the show cause notice and passed the impugned order dated 31.05.2024. Therefore, there is no merit in the submission of the petitioner. Hence, he prayed to dismiss the petition.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (T) for the respondents and perused the materials placed before this Court.

5. In the present case, the only issue raised by the petitioner is that before issuing the impugned order, no opportunity of personal hearing was provided to the petitioner, but the first respondent passed the impugned order after affording an opportunity of personal hearing to the petitioner. However, considering the submission made by the learned counsel for the petitioner that, the petitioner is willing to deposit 10% of the disputed tax

amount, this Court is inclined to set aside the impugned order dated 31.05.2024.

6. Accordingly, the impugned order dated 31.05.2024 is set aside and remanded the matter back to the respondents on condition that the petitioner shall deposit 10% of the disputed tax demand of the impugned assessment year, within a period of four (4) weeks from the date of receipt of a copy of this order and thereafter, the petitioner is directed to file a reply within a period of two (2) weeks. After receipt of the reply, the authorities concerned shall fix a date for personal hearing by sending a physical notice to the petitioner providing 14 days time and thereafter, pass orders on merits and in accordance with law.

7. With the above directions, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

27.09.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
msv

To

1.The State Tax Officer,
Inspection-3,
Coimbatore,

2.The Joint Commissioner (ST)
Directorate General of GST Intelligence,
Coimbatore
Tamil Nadu

KRISHNAN RAMASAMY, J.

msv

WP.No.28350 of 2024
and W.M.P.Nos.30910 and 30911 of 2024

27.09.2024