IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.09.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.27842 of 2024
and
W.M.P.Nos.30353 & 30354 of 2024

Tvl.Jayalakshmi Super Market,
Rep., by its Proprietor Mr.Baskaran,
No.1, Loganathan Street,
Cheyyar. Thiruvanamalai District. ...Petitioner

Vs.

The State Tax Officer,
Vandavasi Assessment Circle,
4312 Sannathi New Street,
Vandavasi 504 408,
Thirvannamalai District. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the respondent proceedings in order in GSTIN:33BDNPB6926P1Z3/2018-19 [Ref. No.ZD330423121428Q] dated 28.03.2024 and quash the same being illegal, invalid without jurisdiction and violated the principles of natural justice and contrary to the law.

For Petitioner : Mr.D.Vijayakumar

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

ORDER

This Writ Petition has been filed by the petitioner challenging the impugned order dated 28.03.2024 passed by the respondent for the assessment year 2018-2019.

2. Mrs.K.Vasanthamala, 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 time of admission stage itself.

4. Alleging that there is a mismatch of tax liability between GST-3B and GST-2A filed by the petitioner for the assessment year 2018-2019, the respondent passed an impugned order dated 28.03.2024, demanding the payment of differential amount in respect of the impugned assessment period.

5. The learned counsel for the petitioner submitted that the show cause notice raised on the petitioner in the GST common portal, stating that there is a mismatch of tax liability filed by the petitioner for the impugned assessment period, for which, the petitioner also filed a reply on 05.05.2023. However, without providing an opportunity of personal hearing to the petitioner, the respondent passed an impugned order dated 28.03.2024 after a period of one year and the same was uploaded in the Web portal, and the physical version of such order was not served on the petitioner. Therefore, he submitted that the order passed by the respondent in violation of principles of natural justice and the same is liable to be set-aside. Hence, he sought for appropriate orders from this Court for affording an opportunity to the petitioner to present the case and participate in the proceedings. 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. Mrs.K.Vasanthamala, learned Government Advocate (Taxes) appearing for the respondent fairly submitted that the petitioner undertook to deposit 10% of the disputed tax in respect of the impugned assessment period.

Recording the said submission made by the learned counsel for the petitioner, 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 (Taxes) 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, for which, the petitioner also filed a reply to the said show cause notice. As contented by the learned counsel for the petitioner, without providing an opportunity of personal hearing to the petitioner, the present impugned order came to be passed by the respondent. In such circumstances, this Court is of the view that the impugned order came to be passed without affording an 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 28.03.2024 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 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 petitions are closed.

23.09.2024

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

Note: Issue order copy on 24.09.2024.

To
The State Tax Officer,
Vandavasi Assessment Circle,
4312 Sannathi New Street,
Vandavasi 504 408,
Thirvannamalai District.

Krishnan Ramasamy,J.,

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W.P.No.27842 of 2024

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