IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.09.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.27837 of 2024 &
W.M.P.Nos.30348 and 30349 of 2024

M/s.PACIFIC GRANITE & STONE INDUSTRIES
Rep by its Partner Mr.Rohan Bhora
SY No.74/3 Nallaganakothapalli Hosur Taluk,
Koneripalli, Krishnagiri- 635 117. ... Petitioner

Vs.

The State Tax Officer (Intelligence)
Inspection Cell-3,
Commercial Taxes Department,
Office of the Joint Commissioner (ST) (Intelligence),
Hosur Division, Hosur, Krishnagiri. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the impugned order of assessment bearing Ref No.33AAOFP7490H1ZS/2022-23 dated 24.07.2024 passed by the respondent under the provisions of Section 74 of the Act in GST DRC-07 for the Financial Year 2022-23 and quash the same as illegal, arbitratry, violation of principles of natural justice.

For Petitioner : Mr.K.Chozhan

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader (Taxes)

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O R D E R

This writ petition has been filed by the petitioner challenging the order of assessment bearing Ref No.33AAOFP7490H1ZS/2022-23 dated 24.07.2024 passed by the respondent under the provisions of Section 74 of the Act in GST DRC-07 for the Financial Year 2022-23 and quash the same as illegal, arbitratry, violation of principles of natural justice.

2. Mr.C.Harsha Raj, 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 would submit that in the present case, initially the respondent issued a notice dated 20.02.2024, for which the Petitioner submitted its reply on 21.03.2024 and thereafter for the very same discrepancies, the Petitioner issued Show Cause Notice on 07.06.2024 followed by personal hearing notice dated 08.07.2024 to the petitioner. Due to non availability of the Petitioner's consultant, they were unable to file reply in time. Under these circumstances, the impugned order dated 24.07.2024 came to be passed by the Respondent demanding tax along with penalty and interest for the Assessment Year 2022-2023.

5.Further, he would submit that impugned assessment order came to be passed without affording an opportunity of hearing to the Petitioner and therefore the same is in violation of principles of natural justice and therefore prays to set aside the same.

6. On the other hand, the learned Additional Government Pleader (Taxes) would submit that the respondent uploaded the show cause

notice as well as the personal hearing notice in the GST Online Portal. But the petitioner failed to submit reply and appear before the authority to substantiate its case and therefore the impugned assessment order came to be passed.

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

8. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the respondent and also perused the materials available on record.

9. In the present case, since the show cause notice followed by personal hearing notice were uploaded in the GST Portal, due to non

availability of the Petitioner's consultant they were not in a position to file reply for the show cause notice.

10. 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 24.07.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 24.07.2024 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.

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

23.09.2024
(6/6)

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

The State Tax Officer (Intelligence)
Inspection Cell-3,
Commercial Taxes Department,
Office of the Joint Commissioner (ST) (Intelligence),
Hosur Division, Hosur, Krishnagiri.

KRISHNAN RAMASAMY.J.,

arr

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