IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.27872 of 2024
& W.M.P.Nos.30391 & 30390 of 2024

Mr.Raji,
Proprietor, Elakkiya Transport,
No.22, Aadhi Vinayagar Avenue,
Mandhavellai Street, Thirumazhisai,
Poonamallee, Thiruvallur 600 124.

... Petitioner

Vs.

The Assistant Commissioner (ST),
Thirumazhisai Assessment Circle,
No.4/109-GST Integrated Building,
Nazaathpet, Chennai 600 123.

... 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 respondent in Ref.No.ZD330724309950F dated 24.07.2024 for the FY 2019-20 and quash the same.

For Petitioner : Mr.R.Swarnavel

For Respondent : Ms.K.Vasanthamala,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 24.07.2024 passed by the respondent.

2. Ms.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that the petitioner is in the business of Lorry transport and as per the notification No.5/2017 dated 19.06.2017, there is no requirement for the petitioner to obtain the GST Registration. However, without considering the nature of business of the petitioner, the respondent uploaded a show cause notice dated 25.10.2023 in the GST Portal. Since the petitioner was not aware

of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. On the other hand, the learned Government Advocate appearing for the respondent would submit that the respondent has uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she requested this Court to pass appropriate orders.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

6. In the case on hand, it is clear that as per the Notification No.5/2017 dated 19.06.2017, there is no requirement for the petitioner to obtain the GST Registration. However, without considering the same, the impugned order came to be passed by the respondent. Further, it is clear that no opportunity of personal hearing was provided to the petitioner prior to the passing of said impugned order. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice since 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.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

(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.

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

26.09.2024

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

To

The Assistant Commissioner (ST),
Thirumazhisai Assessment Circle,
No.4/109-GST Integrated Building,
Nazaathpet, Chennai 600 123.

KRISHNAN RAMASAMY.J.,

nsa

W.P.No.27872 of 2024
& W.M.P.Nos.30391 & 30390 of 2024

26.09.2024