In the High Court of Judicature at Madras

Dated : 19.9.2024

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.27689 of 2024 &
WMP.Nos.30209 & 30212 of 2024

Tvl.MKPO Metal Fabricators
Private Ltd., rep.by its
Managing Director
Mr.Krishnan Ganesh ...Petitioner

Vs

The Assistant Commissioner (ST),
Saravanampatti (East) Circle,
Commercial Tax Building,
Dr.Balasundaram Road,
Coimbatore-18. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records pertaining to the impugned order in Form GST DRC - 07 bearing reference number ZD331123185891E/2017-18 dated 29.11.2023 issued by the respondent and quash the same.

For Petitioner : Mr.S.Durairaj
For Respondent : Mr.Harsha Raj, AGP

ORDER

This writ petition has been filed challenging the proceedings of the respondent dated 29.11.2023.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader accepting notice for the respondent.

3. The petitioner is engaged in manufacturing business and is registered under the Tamil Nadu Goods and Service Tax Act, 2017. The respondent initiated proceedings under Section 74 of the Act on the ground that the petitioner filed the returns belatedly under GSTR - 3B. Accordingly, final orders were passed by directing the petitioner to pay interest for the belated period to the tune of Rs.6,24,779/-. Hence, the petitioner is before this Court.

4. The main ground that was urged by the learned counsel for the petitioner is that they did not participate in the adjudication proceedings because all the notices were only uploaded in the GST portal. The petitioner came to know the order passed by the respondent only during August 2024 when they started receiving notices for recovery.

5. The learned Additional Government Pleader appearing for the respondent submitted that the notices were issued, that though sufficient opportunity was given, the petitioner did not avail the

opportunity and that the impugned order does not suffer from any illegality. Consequently, he has sought for dismissal of this writ petition.

6. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned proceedings.

7. In the instant case, it is seen that notice was issued by the respondent. However, the petitioner did not receive the same. On going through the impugned order, it is seen that a total liability of Rs.6,24,779/- towards interest has been imposed against the petitioner for filing the returns belatedly. The petitioner has come up with a clear case that without affording sufficient opportunity, the impugned order came to be passed.

8. This Court had an occasion to deal with a similar issue in W.P.No.26477 of 2024 dated 12.09.2024. This Court wanted to afford an opportunity to the petitioner therein by putting the petitioner on terms. In order to maintain consistency, a similar order can be passed in this writ petition also.

9. In the light of the above discussions, the impugned order

passed by the respondent in Reference No.ZD331123185891E dated 29.11.2023 is hereby set aside. The matter is remanded back to the respondent for a fresh consideration on condition that the petitioner shall pay 10% of the total demand to the respondent within a period of four weeks from today. If this condition is not complied with, the order passed by the respondent shall stand automatically revived. On compliance of the said condition, the petitioner shall file their reply/ objection before the respondent along with all the relevant documents within a period of two weeks thereafter. The respondent shall thereafter issue a fresh notice to the petitioner, afford an opportunity of personal hearing and pass final orders within a period of three months thereafter.

10. This writ petition is allowed with the above directions. No costs. Consequently, the connected WMPs are closed.

19.9.2024

RS

N.ANAND VENKATESH,J

RS

To
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