IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.28229 of 2024 &
W.M.P.Nos.30778 and 30779 of 2024

Midvalley Foods Pvt. Limited
Represented by its Director
Vijayakumar Padmanabhan
No.150, 16th Street, Chowdry Nagar Main Road,
Chowdry Nagar, Valasaravakkam,
Chennai-600 087. ... Petitioner

Vs.

Deputy State Tax Officer-I
Ramapuram Assessment Circle
No.10, Greams Road, 1st Floor
Palaniappa Maligai, Chennai-600 006. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the impugned order of the Respondent passed in GSTIN:33AAKCM6731F1ZJ/2017-18 dated 29.12.2023 and quash the same.

For Petitioner : Mr.N.Murali

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

***

O R D E R

This writ petition has been filed by the petitioner challenging the order of the Respondent dated 29.12.2023 and to quash the same.

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, show cause notice followed by personal hearing notice were issued against the Petitioner and the same were uploaded in the "view Additional Notices/Orders" in the GST Portal. Since the Petitioner being a small entity was not aware of the said notice and

therefore they had failed to file their reply and appeared before the Respondent for personal hearing. Under these circumstances, the impugned order dated 29.12.2023 came to be passed by the Respondent demanding tax along with penalty and interest for the Assessment Year 2017-2018 and the same was also uploaded in "Additional Notices and Orders" column in the GST portal and therefore the Petitioner was not aware of the said order. The Petitioner came to know of the said notices and the impugned order only during the third week of August 2024, from the Respondent.

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) appearing for the Respondent 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 concerned 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, the petitioner was not aware of the same and therefore 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 29.12.2023 passed by the Respondent. Accordingly, this Court passes the following order:-

> (i) The impugned orders dated 29.12.2023 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.

25.09.2024

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

To

Deputy State Tax Officer-I
Ramapuram Assessment Circle
No.10, Greams Road, 1st Floor
Palaniappa Maligai, Chennai-600 006.

KRISHNAN RAMASAMY.J.,

arr

W.P.No.28229 of 2024 &
W.M.P.Nos.30778 and 30779 of 2024

25.09.2024