IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.27921 of 2024
& W.M.P.Nos.30448 & 30451 of 2024

Tvl.S.Subramanyan Constructions Co.(P) Ltd.,
Represented by its Director,
Sankar Ramamurthy,
20, C.V.Raman Road,
Alwarpet, Chennai 600 018.

... Petitioner

Vs.

The State Tax Officer (ST),
Alwarpet Assessment Circle,
Integrated Registration and Commercial Taxes Building,
2nd Floor, Room No.207,
Government Farm Village,
Nandanam, Chennai 600 035.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent and quash the impugned order dated 28.08.2024 along with Form DRC-07 bearing Ref.No.ZD330824252659Z passed by the respondent.

For Petitioner : Mr.Bharath R.Srinivas

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 28.08.2024 passed by the respondent.

2. Mr.V.Prashanth Kiran, 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 a show cause notice was issued by the respondent on 25.05.2024, for which a detailed reply was filed by the petitioner on 18.07.2024. On the same day, the respondent issued a notice by fixing the personal hearing on 25.07.2024. Thereafter, at request of the petitioner, the personal hearing was adjourned to 15.08.2024, which is a notified national holiday and

hence, the petitioner was unable to appear before the respondent. Therefore, the petitioner filed their 2nd reply dated 24.08.2024, whereby they sought for personal hearing opportunity. However, without providing any such opportunity of personal hearing, 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 also fairly admit that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent.

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 initially, the respondent had fixed the personal hearing on 25.07.2024. Thereafter, at request of the petitioner, the said personal hearing was adjourned to 15.08.2024, which is a national holiday and hence, the petitioner was not in a position to appear before the respondent. Therefore, the petitioner filed their 2nd reply dated 24.08.2024, whereby they requested for an opportunity of personal hearing. However, 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 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 28.08.2024 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 28.08.2024 is set aside and the matter is remanded to the respondent for fresh consideration.
>
> (ii) The respondent shall consider the replies dated 18.07.2024 and 24.08.2024 filed by the petitioner

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 State Tax Officer (ST),
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<u>KRISHNAN RAMASAMY.J.,</u>

nsa

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