IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.28465 of 2024 &

W.M.P.Nos.31031 & 31032 of 2024

M/s.P.S.Enterprises
Rep. by its Proprietor Mr.Sathyendran
No.4, 1st Street, Sharma Nagar, Vyasarpadi,
Chennai – 600 039. ... Petitioner

Vs.

The Assistant Commissioner,
Washermenpet : Zone – II, Chennai North,
Integrated Commercial Taxes Office Complex,
Room No.206, No.1275/3, Bridge Road,
Vepery, Chennai – 600 003. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the Order of the respondent in reference Number ZD330123100051K/2021-22 dated 27.01.2023 and quash the same as arbitrary and illegal.

For Petitioner : Mr.S.Ramanan

For Respondent : Mrs.K.Vasanthamala

Government Advocate [T]

ORDER

Challenging the impugned proceedings of the respondent in reference No.ZD330123100051K/2021-22 dated 27.01.2023 and quash the same as arbitrary and illegal, the present writ petition has been filed.

2. According to the petitioner, they are engaged in trading of raw wooden materials. The petitioner is registered under the TN GST Act and had been filing monthly returns and remitting tax promptly. The respondent has issued a notice Form GST DRC—1A alleging mismatch of Input Tax claim between GSTR3B and GSTR 2B under section 73[5] of TNGST Act on 17.05.2022 and nother notice namely Form GST DRC-01 dated 22.12.2022 . Though the documents are available with the petitioner, they have not filed any reply as the authorised person of the company was not well. The petitioner was not aware of the impugned proceedings as the petitioner's consultant failed to communicate about the the proceedings to the petitioner. The impugned notices were issued with procedural flaws and denying reasonable

opportunity of being heard to the petitioner and the impugned Order has been passed in violation of principles of natural justice. Hence, the present writ petition.

3. Heard both sides and perused the documents enclosed in the typed set of papers. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. Though the petitioner raised very many grounds assailing the order impugned herein, the main contention of the learned counsel for the petitioner is that the consultant, who is looking after the GST compliances has failed to communicate about the proceedings to the petitioner and hence, they were not able to file reply and file documents to substantiate their claims. The petitioner was not provided reasonable opportunity before passing the impugned Order and the order impugned herein is arbitrary, illegal and in violation of the principles of natural justice. He further submitted that he is ready to pay 10% of the disputed tax liablity to the respondent.

5. On the other hand, the learned Government Advocate appearing for the respondent submitted that after analysing the facts and circumstances of the case, the respondent has passed the order impugned.

6. Considering the facts and circumstances of the case coupled with the submissions made by the learned counsel on either side would demonstrate that there is clear violation of principles of natural justice on the part of the respondent in passing the order impugned herein, this court passes the following order:

> [i] The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay a 10% of the disputed tax liability to the respondent within a period of four weeks from the date of receipt of a copy of this order;
>
> [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 first respondent shall consider the same

and pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

7. This writ petition is disposed of on the above terms. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

30.09.2024

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

vrc

To

The Assistant Commissioner,
Washermenpet : Zone – II, Chennai North,
Integrated Commercial Taxes Office Complex,
Room No.206, No.1275/3, Bridge Road,
Vepery, Chennai – 600 003.

KRISHNAN RAMASAMY, J.

vrc

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