IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.28554 of 2024
and
W.M.P.No.31120 & 31121 of 2024

Tvl. J. J. Lall Private Limited,
rep. by its Authorized Representative
Chirag Chouraria
No.106, Rasappa Chetty Street,
Park Town, Chennai – 600 003.

...Petitioner

Vs.

1. The Assistant Commissioner (ST)
   Moore Market Assessment Circle,
   No.32, Elephant Gate Bridge Road,
   Chennai – 600 003.

2. The State Tax Officer/Commercial Tax Officer,
   Moore Market Assessment Circle,
   Moore Market, North-II,
   Chennai North,
   No.32, Elephant Gate Bridge Road,
   Chennai – 600 003.

...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records of the second respondent passed in GSTIN : 33AAACJ2060Q1ZJ/2018-19 dated 12.06.2024 and consequential order under Section 74 and Summary of the order in Form GST DRC-07 having Ref No.ZD330624088423C both dated 12.06.2024 relating to financial year 2018-19 and to quash the same as arbitrary.

For Petitioner : M/s.Pooja Chopda

For Respondents : Mr.T.N.C.Kaushik,
Additional Government Pleader (T)

Order

With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order dated 12.06.2024 and consequential order under Section 74 and Summary of the order in Form GST DRC-07 both dated 12.06.2024 relating to financial year 2018-19 and to quash the same.

3. M/s.Pooja Chopda, learned counsel for the petitioner would submit that on receipt of the show cause notice dated 08.02.2022 the petitioner has filed reply on 14.03.2022, however, the respondent-Department, without considering the said reply, passed the impugned order by wrongly stating that, no reply was filed. Therefore, the learned counsel would submit that the impugned order is an outcome of non application of mind and also suffers from violation of principles of natural justice as no opportunity of personal hearing was afforded to the petitioner before passing the impugned order and hence, the same is liable to be aside and including the consequential proceedings as well.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader (T) for the respondents would submit that taking into consideration of the facts and circumstances of the case, the matter may be remanded back to the respondents for fresh consideration

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. On perusal of records, it is seen that the show cause notice was issued on 08.02.2022, to which, the petitioner filed reply on 14.03.2022. However, the second respondent passed the impugned order, as if, no reply was filed by the petitioner. Thus, it is clear that the impugned order is not only an outcome of non application of mind but also suffers from violation of principles of natural justice, as the petitioner has not been afforded with an opportunity of personal hearing before passing the such order. Hence, this Court is inclined to set aside the impugned order and the consequential proceedings as well.

7. Accordingly, this Court passes the following orders:-

i) The impugned order dated 12.06.2024 and the consequential order dated 12.06.2024 are set aside and the matter is remanded to the respondent for fresh consideration.

ii) In the event, the petitioner intends to file additional reply, the same shall be filed along with relevant documents within a period of two weeks from the date of receipt of a certified copy of this order.

iii) In case, additional reply, if any, is filed, the second respondent is directed to consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and after hearing the petitioner in full, shall decide the matter and pass orders in accordance with law.

8. In the result, the Writ Petition is allowed on the aforesaid terms. No costs.. Consequently, connected Miscellaneous Petitions are closed.

25.09.2024

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Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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