IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.29183 of 2024
and
W.M.P.Nos.31870 and 31871 of 2024

Aadhar Digital Vision Private Limited
Represented by its Director
P.Baskar
Old No.13, New No.11, North Wall Tax Road
Kondithope -600079. ...Petitioner

..Vs..

The State Tax Officer
Vallalar Nagar Assessment Circle
Survey No.1275/3, Integrated Commercial Taxes
Building (North Division), Second Floor
Room No.222, Elephant Gate Bridge Road, Vepery,
Chennai-600003. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the Respondent order dated 26.12.2023 bearing Reference No.GSTIN:33AAKCA593P1Z2/2017-18.

For Petitioner : Mr.Teertha Narayanan

for Adithya Reddy
For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

ORDER

The challenge in this writ petition is to the order dated 26.12.2023 passed by the Respondent and to quash the same.

2. Mr.V.Prashanth Kiran, learned Government Advocate(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 time of admission stage itself.

4. The learned counsel for the petitioner submits that show cause notice dated 02.09.2023 to the Petitioner and the same was uploaded in the "view additional notices and orders" column of the GST portal and hence the Petitioner was unaware of the said proceedings and therefore they could not file reply to the same. Under such circumstances, the respondent passed the impugned order dated 26.12.2023, demanding tax with penalty for the Assessment Year 2017-18 and the same was also uploaded in the GST portal.

The Petitioner came to know of the same only after receipt of the recovery notice from the Respondent. He further submitted that entire tax liability has been recovered from the Petitioner.

5. On the other hand, the learned Government Advocate (Taxes) would submit that the respondent though the Show Cause notice followed by reminder notice were issued to the Petitioner but they failed to submit their reply and therefore impugned order came to be passed. As far as the contention of the petitioner with regard to the payment of tax liability is concerned, the learned Government Advocate (Taxes) would submit that appropriate orders may be passed subject to verification.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the respondent and also perused the materials available on record.

7. In the present case, 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 was 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 26.12.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside.

(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.

(iv) The Respondent is at liberty to recover 10% of the disputed tax liability in case, if no amount has been recovered from the petitioner.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

14.10.2024

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

To

The State Tax Officer
Vallalar Nagar Assessment Circle
Survey No.1275/3, Integrated Commercial Taxes
Building (North Division), Second Floor
Room No.222, Elephant Gate Bridge Road, Vepery,
Chennai-600003.

Krishnan Ramasamy,J.,
arr

<u>W.P.No.29183 of 2024</u>

14.10.2024