IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.30548 of 2024
and
W.M.P.Nos.33162 and 33163 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 dated 22.12.2023 bearing Reference No.ZD331223176035R and consequential recovery notice in Form GSTR DRC-16 dated 23.08.2024 issued by the Respondent and to quash the same as it has been passed in violation of principles of natural justice.

For Petitioner : Ms.Janani N

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

ORDER

This Writ Petition has been filed to call for the records of the Respondent dated 22.12.2023 bearing Reference No.ZD331223176035R and consequential recovery notice in Form GSTR DRC-16 dated 23.08.2024 issued by the Respondent and to quash the same as it has been passed in violation of principles of natural justice.

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 was issued to the Petitioner on 20.09.2023. Since the same was uploaded in the "View additional notices and orders" column, the Petitioner was not aware of the same and therefore failed to submit its reply in time.

Under such circumstances, impugned assessment order dated 22.12.2023 came to be passed and the same was also uploaded in the GST portal. Subsequently, the properties of the Petitioner was attached vide recovery notice of the Respondent dated 23.08.2024. The Petitioner came to know of the said order only after the receipt of the recovery notice.

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. The learned Government Advocate (Taxes) appearing for the Respondent submitted that though the Show Cause Notice was issued to the Petitioner, by uploading the same in the GST portal, the Petitioner failed to submit its reply in time and therefore impugned assessment order came be passed followed by recovery notice.

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

8. In the present case,since the Show Cause Notice was uploaded in the GST Portal, the Petitioner was not aware of the same and hence failed to submit its reply and subsequently impugned assessment order followed by recovery notice came to be passed without affording an opportunity of personal hearing to the Petitioner.

9. Hence, this Court is of the view that the impugned orders are 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 assessment order dated 22.12.2023 and the recovery notice dated 23.08.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The orders impugned herein are 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 Respondent 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.

10. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

17.10.2024

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

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