IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.10.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.29186 of 2024 &
W.M.P.Nos.31872 and 31873 of 2024

M/s.Prayan Diary Farms Private Limited
Rep By its Authorised Signatory Mr.Padam Kumar
Door No.38, Mf4, Ground, Prayan,
College Road, Thousand Lights,
Chennai-600006. ... Petitioner

Vs.

1. Commercial Tax Officer
   Nungambakkam Zone -IV
   Chennai Central, Tamilnadu.

2. State Tax Officer
   Nungambakkam Assessment Circle
   Chennai-600034. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the impugned Assessment Order dated 18.09.2023 bearing GST No.33AAJCP4515H1ZJ/2017-2018 issued by the 2nd Respondent and quash the same as illegal and arbitrary.

For Petitioner : Mr.Sanskar Samdaria S

For Respondents : Mr.G.Nanmaran
Special Government Pleader

ORDER

This writ petition has been filed by the petitioner challenging the orders of the Respondent dated 18.09.2023 and to quash the same.

2. Mr.G.Nanmaran, learned Special Government Pleader (Taxes) takes notice on behalf of the Respondents.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the Petitioner would submit that in the present case, the GST of the Petitioner's Company was cancelled on 20.04.2021 and thereafter after a lapse of two years, the Respondent issued Show Cause Notice to the petitioner on 15.05.2023 and the same was uploaded in the "View Notice and Orders" column and "View Additional Notices and Orders" tab in the GST Portal. Since the Petitioner being a small business concern, they were not aware of the

same and hence they had failed to file their reply. Under these circumstances, the impugned assessment order dated 18.09.2023 came to be passed by the Respondent demanding tax along with penalty and interest for the Assessment Year 2017-2018 and the same was also uploaded in the GST portal. The Petitioner came to know of the impugned order from the Respondent only during August 2024.

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. On the other hand, the learned Special Government Pleader (Taxes) would submit that the respondent uploaded the show cause notice as well as the personal hearing notices in the Online Portal. But the petitioner failed to submit reply to substantiate its case and therefore the impugned assessment order came to be passed.

7. In reply, the learned counsel for the Petitioner would fairly submit that the petitioner is now ready and willing to pay 10% of the

disputed tax liability made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Special Government Pleader (Taxes) has no serious objection.

8. Heard the learned counsel for the Ppetitioner and the learned Special Government Pleader (Taxes) for the Respondent and also perused the materials available on record.

9. In the present case, since the show cause notice as well as the personal hearing notice were uploaded in the GST Portal, the petitioner was not aware of the same and therefore they were not in a position to file reply for the show cause notice.

10. Further, it appears that no opportunity of personal hearing was provided to the Petitioner prior to the passing of impugned orders. 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 order dated 18.09.2023 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 18.09.2023 is 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 respondents within a period of ***four weeks*** from the date of receipt of a copy of this order and the setting aside of the impugned orders 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.

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

14.10.2024
(1/2)

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

1. Commercial Tax Officer
   Nungambakkam Zone -IV
   Chennai Central, Tamilnadu.

2. State Tax Officer
   Nungambakkam Assessment Circle
   Chennai-600034.

KRISHNAN RAMASAMY.J.,

arr

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